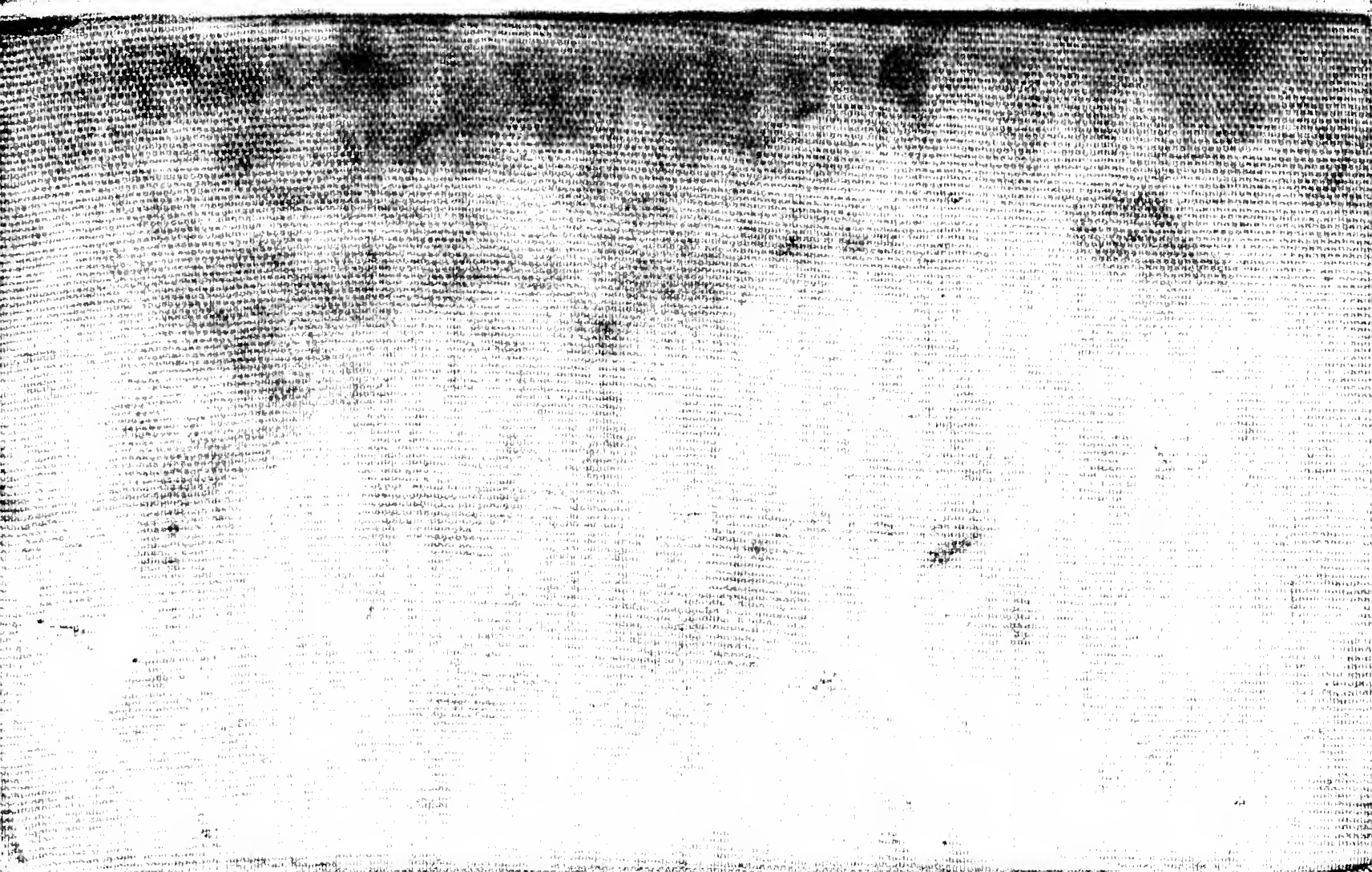

U. S. DEPARTMENT OF LABOR
W. B. WILSON, Secretary
CHILDREN'S BUREAU
JULIA C. LATHROP, Chief

STANDARDS OF LEGAL PROTECTION FOR CHILDREN BORN OUT OF WEDLOCK

A REPORT OF REGIONAL CONFERENCES

HELD UNDER THE AUSPICES OF THE U. S. CHILDREN'S BUREAU AND THE INTER-CITY CONFERENCE ON ILLEGITIMACY

Chicago, Ill., February 9–10, 1920
New York, N. Y., February 16–17, 1920

CONFERENCE SERIES No. 3
Bureau Publication No. 77

WASHINGTON
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CONTENTS.

LETTER OF TRANSMITTAL.

U. S. DEPARTMENT OF LABOR,
CHILDREN'S BUREAU,
Washington, November 2, 1920.

SIR: The following report entitled "Standards of Legal Protection for Children Born Out of Wedlock" advances to a practical issue the inquiry into illegitimacy as a social and economic problem which the Children's Bureau undertook in 1915. The previous publications of this inquiry are as follows:

Illegitimacy as a Child-Welfare problem:
Part I. A brief treatment of the prevalence and significance of birth out of wedlock.
Part II. A study of original records in the city of Boston and in the State of Massachusetts.
Illegitimacy Laws of the United States and Certain Foreign Countries.
Norwegian Laws Concerning Illegitimate Children.

In addition, an analysis of case records of organizations caring for children born out of wedlock in various city and rural areas is now underway, its purpose being to secure information which, without publicity or embarrassment to the children concerned, will show how far it has been possible to establish them in fair surroundings.

The present publication contains the reports of two regional conferences held under the auspices of the bureau—one in Chicago and one in New York. As the text shows, these conferences were resultants of many previous discussions and were representative on the whole of conservative, well-informed opinion. The resolutions adopted independently by the conferences are therefore significant of public opinion in this country. In brief, they express that view of the rightful status of every child shown in the searching words of an American social economist, Mr. Ethelbert Stewart, commissioner of labor statistics of this department: "There may be illegitimate parents—there can be no illegitimate child." And incidental to the solicitude for the child's rights is seen throughout these discussions a full sense of the importance of aiding the mother in such a way as to restore her standing and enable her to care for her child with decent dignity.

The modern tendency to set forth principles by which officials shall be guided rather than to lay down rigid, detailed directions is seen in the syllabus of propositions offered as a basis for a program of illegitimacy legislation. The fact that the National Conference of

Commissioners on Uniform State Laws has appointed a committee, of which Mr. Ernst Freund is chairman, to consider this syllabus and to draft a model law for the treatment of illegitimacy offers great encouragement as to the progress of State legislation.

The responsibility for the conception and development of the entire inquiry belongs to Miss Emma O. Lundberg, Director of the Social Service Division of the Children's Bureau. Miss Katharine F. Lenroot, assistant director of the division, has been actively engaged on the various phases of the inquiry during its progress.

I join Miss Lundberg in wishing to express the deepest appreciation of the untiring cooperation given the bureau by officials of public and private agencies and institutions and by others interested in the problem.

Respectfully submitted.

JULIA C. LATHROP, *Chief.*

Hon. WILLIAM B. WILSON,
Secretary of Labor.

FOREWORD.

EMMA O. LUNDBERG, *Director of the Social Service Division, U. S. Children's Bureau.*

The "minimum standards" adopted by the Washington and Regional Conferences on Child Welfare held under the auspices of the Children's Bureau in 1919, and marking the end of Children's Year, included the following on the care of children born out of wedlock:

The child born out of wedlock constitutes a very serious problem, and for this reason special safeguards should be provided.

Save for unusual reasons both parents should be held responsible for the child during its minority, and especially should the responsibility of the father be emphasized.

Care of the child by its mother is highly desirable, particularly during the nursing months.

No parent of a child born out of wedlock should be permitted to surrender the child outside its own family, save with the consent of a properly designated State department or a court of proper jurisdiction.

Each State should make suitable provision of a humane character for establishing paternity and guaranteeing to children born out of wedlock the rights naturally belonging to children born in wedlock. The fathers of such children should be under the same financial responsibilities and the same legal liabilities toward their children as other fathers. The administration of the courts with reference to such cases should be so regulated as not only to protect the legal rights of the mother and child but also to avoid unnecessary publicity and humiliation.

The treatment of the unmarried mother and her child should include the best medical supervision and should be so directed as to afford the widest opportunity for wholesome, normal life.

The conferences reported in the present publication were brought about by the widespread interest in the problem of the protection of children born out of wedlock, and were especially timely in connection with the present nation-wide movement for revision of child-welfare laws—a subject that was also given expression in the Minimum Standards for Child Welfare. The immediate occasion for the conferences was a request by the Inter-City Conference on Illegitimacy, an organization representing about 20 local groups and a large number of individual members, that the Children's Bureau should follow up its inquiries and reports on this large group of children who stand in particular need of protection by the State, by calling together a limited number of people especially qualified to discuss the desirable legal measures. Accordingly, two regional conferences were held, the first in Chicago on February 9 and 10, and the second in New York on February 16 and 17. In order that discussion might be concrete, the number invited to attend each of these conferences was limited to about 60, comprising representatives

of State and city departments, executives and case workers of child-caring agencies, judges, lawyers, probation officers, and delegates from local groups. Those taking part in the conferences came from a total of 35 cities; 21 States, the District of Columbia, and Canada were represented.

The regional conferences in Chicago and New York followed a period of intensive study of the subjects under consideration by about 20 local groups [1] having a total membership of approximately 500. The purpose of the conferences was to obtain full discussion by those having first-hand knowledge of the problem, which it was hoped would lead to the formulation of principles—with general agreement if possible—on the standards which should govern legislation in this field. The four sessions of each of the conferences consisted of formal papers and general discussions, the programs following the plan for discussion of legislation that had been outlined previously for the use of local groups. There were also reports on each topic by delegates from the local groups, summarizing the conclusions that had been reached by their respective conferences. The opening sessions dealt, from the legal and social standpoints, with the present law regarding children born out of wedlock and the possible changes in legislation. The subsequent sessions were concerned with detailed discussion of methods of establishing parentage, the nature of filiation proceedings, the responsibility of the father and of the mother, methods of insuring support and care whenever possible, and the extent to which the State should assume guardianship over children born out of wedlock. A resolutions committee of five members [2] was appointed at each conference, the last hours of which were devoted to discussing and acting upon the report of the committee. After amendment in some particulars each separate resolution was adopted—in most instances by unanimous vote. Full reports of the discussions of the conferences are available in manuscript, but it appeared necessary to limit the printed edition to the papers and final resolutions, the latter representing the outcome of the discussions.

Following upon the regional conferences the Children's Bureau appointed a committee to draft a memorandum embodying the principles agreed upon with such unanimity by both conferences and to act in an advisory capacity to the bureau on this subject. The membership of the committee was as follows: Ernst Freund, professor of jurisprudence and public law, University of Chicago Law School, chairman; Homer Folks, secretary of the New York State Charities Aid Association; William W. Hodson, director of the

[1] See "Outline for discussion of legislation," p. 150, and "Summary of reports received from local conferences, given on the charts following p. 151.

[2] See personnel of committees, pp. 94, 149.

Children's Bureau, Minnesota State Board of Control; Rev. William J. Kerby, secretary of the National Conference of Catholic Charities; Mrs. Catherine Waugh McCulloch, chairman of the committee on uniform laws concerning women, National League of Women Voters; Mrs. Ada Eliot Sheffield, director of the Boston Bureau on Illegitimacy. Prof. Freund drafted a syllabus of propositions to serve as a basis of a program for illegitimacy legislation,[3] which, with certain amendments, the committee approved.

The National Conference of Commissioners on Uniform State Laws, organized to draft measures relating to subjects on which uniformity is considered desirable, and composed of representatives appointed by executive or legislative authority in the several States, the District of Columbia, and the insular possessions of the United States, has given considerable attention to legislation relating to domestic relations. Uniform acts have been drafted and approved relating to marriage, divorce, family desertion, and other subjects of social legislation. These acts have no legal standing unless they are adopted by the several States, but consideration of a subject by the commissioners does much to secure general agreement upon fundamental principles and to promote legislative action. During the regional conferences the suggestion was made that the National Conference of Commissioners on Uniform State Laws be requested to take under consideration the subject of the legal protection of children born out of wedlock. This met with the hearty approval of those in attendance, and such a request by the Children's Bureau was presented to the committee on scope and program at a meeting held in May, 1920. A subcommittee was appointed, with John B. Sanborn, of Wisconsin, as chairman, to consider the matter in advance of the annual meeting of the commissioners in August, 1920, and to make recommendations as to the action which should be taken by the commissioners. This committee reported a resolution for the draft of an act or acts for the protection of illegitimate children. The resolution was adopted by the National Conference of Commissioners on Uniform State Laws August 19, and Professor Freund was appointed chairman of a committee on status and protection of illegitimate children.

The results of the regional conferences should be of particular value in connection with the child-welfare commission movement. Almost two-thirds of the States of the Union are now, or have been, definitely interested in organized efforts to improve child-welfare legislation. In a total of 19 States and the District of Columbia official commissions for the purpose of studying child-welfare needs and of suggesting revision of the laws for the protection of children have reported or are now at work. The plans of such a commission have usually involved a study of conditions in the

[3] See p. 20.

State and an analysis of existing laws, as well as inquiry into the laws that have proved to be practicable and beneficial in other States. Protection of children born out of wedlock—an important part of the problem of child dependency and neglect—has been given especial attention by many of the commissions, notably the Minnesota Child-Welfare Commission reporting to the legislature in 1917, and the two Children's Code Commissions of Missouri reporting to the legislatures in 1917 and 1919. Reports of the proceedings of the two regional conferences have already, in their preliminary form, been placed at the disposal of commissions now at work in various States. In at least 10 States commissions will report during the legislative sessions of 1921 on general programs for the revision of child-welfare laws, and in a number of other States bills will be introduced, fostered by various groups or individuals, dealing with special features of the protection of childhood. It is most essential in all this effort that there should be thorough understanding of the problems to be met by the proposed legislation, and that such statutes as are enacted should represent the combined experience and opinion of those in a position to suggest what measures are needed and how they can best be carried out.

Considered as a problem in domestic relations, the legal protection of the child born out of wedlock presents two main aspects—the child's status and the enforcement of parental responsibility for care and support. The status of legitimacy or illegitimacy is the sole distinction of birth legally recognized in the United States. In most of the States the child born out of wedlock has been given practically the status of a child of legitimate birth with respect to the mother. But, except in one State—North Dakota—it has been held incompatible with the interests of the legal family to place the child of illegitimate birth upon an equality with the child born in wedlock with respect to his claims upon the father. The practical difficulties in determining paternity have contributed to this inequality. The disadvantageous position occupied by the child of illegitimate birth has extended to the right of support and maintenance from the father and to inheritance rights. Because of the difference in status, special forms of legal procedure have been developed for the establishment of paternity and the securing of (in most States) a limited right to support from the father. In some States the adjudged father comes under the general nonsupport and desertion laws; in the majority of States the enforcement of support comes only through special illegitimacy proceedings. At present there is great diversity in law and in practice, and this results in confusion, the placing of an undue burden upon public funds, and injustice to the individuals concerned.

It was not the thought of the conferences that there could be, considering the form of government of this country, a detailed law

relating to illegitimacy which would be applicable to all the States. Each State must of necessity build up its legislation in conformity with its preceding laws and with due consideration for its own peculiar conditions. Entire uniformity among the several States is neither desirable nor practicable, but agreement with respect to certain basic principles is essential. Especially with reference to status and property rights and jurisdiction is such general agreement needed.

RESOLUTIONS OF THE CHICAGO REGIONAL CONFERENCE.[1]

1. Registration of all illegitimate births is desirable. The name of the father of a child born out of wedlock should be recorded on the birth certificate only in the event that there has been an adjudication of paternity or that the father has consented in writing to the entry of his name on such certificate. It should be provided further in the law that the clerk of the court having jurisdiction of proceedings to establish paternity should within a reasonable time report such adjudications to the local or State authorities charged with the responsibility of recording birth certificates.

2. All records of birth should be recorded as private, confidential records, open to inspection only upon order or decree of court. There should be provided, however, some record of births which is open to public inspection and from which transcripts may be taken for required uses, but such public records and such transcripts should not disclose any facts with reference to legitimacy or illegitimacy.

3. All cases of children born out of wedlock should be reported to a properly authorized public agency. In the event that the mother of such child is unwilling to institute proceedings to establish its paternity, there should be provision in the law for the filing of such complaint by such public agency where, in the judgment of such agency, the interests of the State or of the child so require.

4. The proceedings to establish paternity are of a somewhat unique character, unlike the ordinary cases of a civil or criminal type. The proceedings should, therefore, be heard in a court of socialized experience and equipment. It is desirable that these hearings be of a private character and every means possible should be taken to insure such privacy.

5. The nature of a proceeding to establish paternity varies according to the individual practice of the States. In some States it is a civil action and in others criminal, and in still others it bears the character of both. The civil and the criminal proceeding each has advantages which must not be overlooked. It would seem desirable to provide for the use of either form of proceeding as the exigencies of the case or the local conditions may demand.

6. The father of a child born out of wedlock should make financial provision for the adequate care, maintenance, and education of the child, having reference to the father's economic condition.

7. After an adjudication of paternity has been entered, the law should provide a method whereby a criminal action may be brought for failure to fulfill the judgment obligation.

[1] For personnel of the committee on resolutions, see p. 94.

8. The court having jurisdiction of the proceedings to establish paternity should have continuing jurisdiction with reference both to custody and support during the minority of the child.

9. Where it seems desirable in the interests of the child to accept a lump-sum payment in full discharge of the judgment obligation, such payment should be made with reference to the nature and extent of the obligation imposed by such judgment of paternity. It is desirable that there should be an exercise of discretion in the individual cases as to whether a lump-sum payment should be accepted or installment payments required. In any event settlement to be binding should always bear the approval of the court having jurisdiction of the proceedings to establish paternity.

10. No parent or guardian should be permitted to assign or otherwise transfer to another his rights or duties with respect to the permanent care and custody of children under the age of 14 years, and all such attempted transfers should be void unless they are brought about through an order or decree of a court of competent jurisdiction. The transfer of human life should be surrounded with at least as much dignity as characterizes the transfers of property rights.

The duty of the State to protect the interests of children born out of wedlock is recognized and affirmed. The manner in which this duty may best be performed will be subject to the conditions and circumstances peculiar to each State. With due allowance for local variance and need this conference recommends the creation of State departments of child welfare the duties of which shall include responsibility for assisting unmarried mothers and children born out of wedlock.

The State should license and supervise private hospitals which receive unmarried women for confinement, and all private child-helping and child-placing agencies, to the end that unfit hospitals and agencies may be eliminated. Any such system of licensing and supervising can be successful only if it afford full opportunity for the development of private initiative and recognizes the need for cordial cooperation between the private agency of recognized standards and the State.

11. We recognize the physiological benefit to the child of breast feeding and we recommend that every effort be made to keep the mother and child together during the nursing period. We do not favor the enactment of any compulsory legislation applicable only to unmarried mothers.

12. In cases where there is inadequate support from the father, we recommend careful consideration as to ways and means by which the mother of a child born out of wedlock may receive assistance in supporting her child from other sources.

13. After an adjudication of paternity or an acknowledgment in writing by the father, the child born out of wedlock should have the same rights of inheritance as the child born in wedlock.

14. The child born out of wedlock should bear its mother's surname, but after adjudication of paternity and upon petition of the child after it attains its majority, or by the guardian or next friend during the minority of the child, it should be mandatory upon a court of competent jurisdiction to permit the child to assume the surname of the father.

RESOLUTIONS OF THE NEW YORK REGIONAL CONFERENCE.[1]

1. State supervision.

a. The State should assume supervision and protection over all children born out of wedlock. The manner in which this duty may best be performed will be subject to the conditions and circumstances peculiar to each State. With due allowance for local variance and need, this conference recommends the creation of State departments having the responsibility for child welfare, which should include among their duties the assisting of unmarried mothers and of children born out of wedlock.

b. State guardianship should be exercised only over those children who are neglected or dependent or in danger of becoming dependent. The State department, however, should assure itself that every child born out of wedlock receives proper care.

c. The parents should not be permitted to surrender a child for adoption, or to transfer guardianship, or to place him out permanently for care, without order of the court or State department, made after investigation.

d. The State should license and supervise private hospitals which receive unmarried mothers for confinement and all private child-helping and child-placing agencies, to the end that unfit hospitals and agencies may be sufficiently improved or eliminated. Any such system of licensing and supervising can be successful only if it affords full opportunity for the development of private initiative and recognizes the need for cordial cooperation between the private agency and the State.

2. Birth registration.

a. The registration of all births should be compulsory. The Bureau of Vital Statistics should report all births which are not clearly legitimate to the State department having the responsibility for child welfare. An effort should be made to determine paternity in every instance by case work, and when deemed advisable by legal proceedings. The father's name should be recorded on the birth record only when established by court adjudication or on affidavit or filed written consent of the father. It should be provided further in the law that the clerks of the court having jurisdiction of proceedings to establish paternity should within a reasonable time report such adjudications to the Bureau of Vital Statistics.

[1] For personnel of the committee on resolutions, see p. 149.

b. An effort should be made, by good case work, to persuade the mother to give the name of the father, but this should not be compelled by law.

c. All records of births out of wedlock should be confidential records, open to inspection only upon order of court, and all transcripts for school and work purposes should omit the names of parents.

3. Establishment of paternity.

a. The mother should be persuaded, by case work, to start proceedings whenever possible. Otherwise the State department above mentioned should assume this responsibility. Action to establish paternity should be brought in all cases in which in the discretion of the department it is for the best interests of the child.

b. The proceedings should be instituted in a court having civil, criminal, and equity powers, and equipped with a staff of probation officers or other social case workers. The proceedings should be as informal and private as possible.

c. Proceedings should be initiated within five years from the date of birth of the child, or within five years after support has ceased or after informal acknowledgment of paternity. Every effort should, however, be made by the State department to establish paternity as early as possible.

4. Father's responsibility for support of child.

a. The obligations for support on the part of the father should be the same for the child born out of wedlock as for the legitimate child. There should be a uniform law making desertion of a child of illegitimate birth an offense of the same order as desertion of a child born in wedlock, and an offense readily extraditable.

b. The court should have continuing jurisdiction during the minority of the child, both in regard to custody and support, with power to revise its orders as changing conditions may necessitate. Probation should be in the discretion of the court.

c. The court should have it in its discretion to accept lump-sum payments.

d. Settlements out of court, in order to be valid, should be approved by the court.

5. Inheritance rights.

a. After an adjudication of paternity or an acknowledgment in writing by the father, the child born out of wedlock should have the same rights of inheritance as the child born in wedlock.

b. The child's right to the name of the father should be permissive after an adjudication of paternity or an acknowledgment in writing by the father.

6. Care by the mother.

The mother should be persuaded, by good case work, to keep her child at least during the nursing period whenever possible. When necessary, steps should be taken to secure for mother and child the benefits of the so-called mothers' pension acts.

7. Legitimation.

Subsequent marriage of the parents should legitimate the child born out of wedlock. The offspring of a void or voidable marriage should be by law legitimate.

SYLLABUS OF PROPOSITIONS TO SERVE AS BASIS OF A PROGRAM FOR ILLEGITIMACY LEGISLATION.

[Drafted by Prof. ERNST FREUND, and approved, with amendments, by committee.[1]]

Status.

1. Every child shall be the lawful child of his or her mother.

2. The issue of a void or voidable marriage shall be deemed to be legitimate.

3. Children born out of wedlock shall be legitimated by the marriage of their parents.

4. There shall be additional provision for making issue legitimate by appropriate act or declaration.

5. Until and in the absence of legitimation, the parental rights belong to the mother.

6. Upon legitimation, in case of disagreement between father and mother, the right of custody shall be adjusted by order of a court.

7. Mother and child shall have a right to have the paternity of the child judicially established. (Question: Should there be such right after the death of the father?)

8. The child shall be entitled to the name of his father if he has been legitimated and not otherwise. (Committee disagreed, but a majority approved the foregoing statement.)

9. The child shall have the right to inherit from the father even though not legitimated. (Committee disagreed, but a majority approved the foregoing statement.)

Obligation to support.

10. The father shall be under obligation to support the child until the child is self-supporting. The obligation shall be an obligation toward both the mother and the child. Those furnishing support to the child shall have a right of recovery against the father. There shall be a similar obligation for expenses connected with the birth of the child.

11. The standard of maintenance shall be within the discretion of the court, but shall be such as will provide suitable and appropriate care and education, having due regard to the child's best interest, and such as will afford him suitable opportunity for growth, development, and education.

12. If the obligation is established before death either by acknowledgment or other corroborated evidence, such obligation should be continued after death but should be enforced with due regard to the equal rights of the lawful family.

[1] See p. 10

13. The full compliance with a decree of support or the carrying out of the forms of a judicially approved settlement shall discharge the obligation of support.

14. The failure to support, where paternity has been acknowledged, or after paternity has been judicially established, shall be a misdemeanor.

15. The offense of nonsupport shall not be of the same kind and order as the offense of desertion of a lawful child. (Committee disagreed, but a majority approved the foregoing statement.)

16. The failure to comply with a decree of support shall be a misdemeanor.

Jurisdiction as between States.

17. The residence of the father, as well as that of the mother or of the child shall give jurisdiction in civil proceedings.

18. Measures to compel support shall be available on behalf of a nonresident mother or child.

19. The noncompliance with a decree shall be a misdemeanor, even though mother or child is nonresident.

20. The judgment of the court of another State shall enjoy full faith and credit, though it is a judgment for future payments, and for payments variable in the discretion of the court, and such a judgment may be made the basis of similar proceedings authorized by the laws of the domestic forum.

Jurisdiction within the State.

21. Civil proceedings may be brought in the county or district where the father resides or may be found, or where the woman or child may be found.

22. Where courts are specially organized for jurisdiction over juvenile cases or over cases concerning domestic relations, or where there is a court of socialized equipment and experience, proceedings regarding children born out of wedlock shall be brought in such courts.

Civil remedies.

23. A proceeding to establish paternity may be brought by the mother, by the child, or by the legal representative of the child. It shall be regarded as a proceeding in equity. An authorized public authority shall have the right to bring proceedings to establish paternity when, in its judgment, such proceedings should be brought. (Committee disagreed in regard to action of public authority, but a majority approved the foregoing statement.)

24. The obligation to support may be enforced by appropriate proceedings at law or in equity, or by statutory proceedings to compel support.

25. The statutory proceedings to compel support may be brought by the mother, and, if the support of the child is likely to be a public charge, by the authorities charged with the support.

26. After the mother's death, or in case of her disability, the proceeding may be brought by anyone acting on behalf of the child.

27. The proceeding may be brought either before or after the birth of the child.

28. The complaint may be made to any judge or magistrate having power to commit for trial.

29. The complaint shall be in writing, or oral and reduced to writing by the judge or magistrate or clerk of the court. It shall be verified.

30. The magistrate to whom the complaint is made shall issue a warrant against the person accused, or, with the consent of the complainant, may issue a summons.

31. Provision shall be made for service of the warrant or summons anywhere within the State.

32. The person charged shall be brought before the magistrate for preliminary examination. The magistrate may examine the complainant and any witnesses she may produce, and shall hear any statement the defendant may desire to make.

33. As the result of the examination the magistrate shall either discharge the defendant or bind him over for trial by requiring security, and, upon failure to furnish security, by committing him to jail.

34. The trial shall not be had until after the birth of the child, except by consent of defendant.

35. The trial shall be as in civil cases; the defendant shall be entitled to a jury. The testimony of the complainant shall be corroborated.

36. If possible, the court having jurisdiction of proceedings should have discretionary power to hear the case, or at least the testimony of the complainant, in private.

37. The judgment shall be, as a rule, for periodical payments, the amount to be subject to the power of the court to vary from time to time.

38. The court may give judgment for a lump sum, if this is deemed to be for the best interest of the child.

39. The court may require the payments to be made to the mother, or to some person to be designated by the court as trustee for her and for the child.

40. The court shall require the defendant to give security for the payments to be made, by entering into bond with or without surety or sureties as the court may direct. If the defendant fails to give

such security, the court may order him to be committed to jail until he shall be discharged upon proving his inability to furnish security.

41. Until the defendant furnishes security satisfactory to the court, the court may commit him to the custody of a probation officer, subject to the direction of the court.

42. The court shall have continuing jurisdiction over the case until the obligation to support shall have ceased.

43. Upon the death of the father, the claim for support shall become a claim against the father's estate, to be dealt with according to the circumstances of the case, with due regard to all other claims against the estate.

44. No agreement between the mother and the father by way of compromise or settlement of the obligation of support shall be binding without the approval of a judge having jurisdiction of proceedings to enforce the obligation of support.

45. No action to compel support shall be brought more than — years after the birth of the child, unless there has been an adjudication of paternity or contribution to support or acknowledgment in some other form.

Criminal proceedings.

46. In case of conviction for failure to support, the court may suspend sentence and commit the defendant to the custody of a probation officer, subject to the direction of the court.

Concurrence of remedies.

47. Civil and criminal remedies shall be concurrent.

Records.

48. Birth registration records shall indicate the fact of legitimacy or illegitimacy. (Committee disagreed, but a majority approved the foregoing statement.)

49. The mother of a child shall not have the right to have any person other than her husband registered as the father of the child, except with the consent of the father.

50. A decree establishing paternity shall be accompanied by directions to make corresponding entries in the birth records. (Committee disagreed, but a majority approved the foregoing statement.)

51. Statutory provisions requiring the consent or a certificate of parents, or notice to parents, or the statement of the names of parents, shall be deemed to be satisfied by treating as sole parent the parent having the custody of the child.

CHICAGO CONFERENCE.

THE PRESENT LAW AND THE PRACTICAL IDEAL.

THE PURPOSE OF THE CONFERENCE.

JULIA C. LATHROP, *Chief of the U. S. Children's Bureau.*

MR. CHAIRMAN AND FRIENDS: Prof. Ernst Freund will remember the day he came into the Children's Bureau and took us to task for never having investigated the illegitimacy laws. The most careful statistical estimates show that the percentage of illegitimate births for the whole population of this country is much lower than for most foreign countries, and it may seem as if there were no serious problem at the moment. But strong social influences are now being exerted for greater precision of conduct among young people, and we can not afford to let the yearly average of 32,000 illegitimate births among the white population continue without a real effort to lessen it. Moreover, it is ethically unsound, and it would show poor understanding, to consider only one element of our population. The figures for the colored—insufficient and inaccurate as they are—show the existence of a problem which requires wise and painstaking work by white and colored jointly.

As an added reason for this conference, Prof. Freund will show us, in some of the laws which still remain on the statute books of the States, strange, archaic remnants of the most brutal attitude toward women. For while we all recognize that the child's welfare is to be regarded as paramount, we must not forget the awful social burden the mother has to bear, and we should maintain that just attitude toward the whole problem which will make for the ultimate best interests of the child himself.

Nine years ago Ohio led the States in attempting the revision and the consistent codification of the State laws relating to child welfare—a movement which has since spread through a large number of the States. In such work the problem before us proves one of the most baffling. Through this conference and that to be held in New York, made up of representatives from all parts of the country, we may reasonably hope to find the basic principles upon which uniform laws may be drafted, which—like the model birth-registration law and other laws drafted by the commissioners on uniform State laws—may be used as guides by the law-making bodies of the various States.

Laying aside all old conventions, facing the problem as one requiring social sense not sentimentality, our self-respect demands that we shall find this common basis—a basis that may be recognized as a fair and decent legal status for the child born out of wedlock, for the unmarried mother, and for the father himself.

THE PRESENT LAW CONCERNING CHILDREN BORN OUT OF WEDLOCK, AND POSSIBLE CHANGES IN LEGISLATION

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Until a few years ago, legislation in this country concerning children born out of wedlock—not uncommonly designated as bastardy legislation—was in a stagnant condition. Two phases of this legislation must be distinguished, one relating to the status of the illegitimate child, the other relating to its support. American legislative ideas have been largely influenced by English traditions and precedents. However, from an early period, American States had changed the principles of the English law concerning the status of illegitimate children. That law was marked by unexampled harshness. The term "filius nullius," ("no one's child") was taken literally; hence, the filial relationship was not even recognized with regard to the mother. This unfortunate status was incapable of correction by the act of the parents; there was no provision for legitimation by marriage, nor for other legitimation, nor for adoption. Strange to say, such remains the law of England to the present day, though changes are being agitated. In America the relation of the child to the mother has become practically like that of a legitimate child, and either by legitimation or by adoption the child can be given a name and a place in a normal family.

But in the matter of provision for support and care American legislation has, in the main, been content to abide by British models, and the English law in this respect is still ruled by the policies of Elizabethan pauper and police legislation. The misconduct of the parents—"an offense against God's law and man's law"—has resulted in an increase of the burden of poor relief, thereby the parents have rendered themselves amenable to punishment, and measures must be taken to shift the burden from the public to the father—this seems to be the sole thought and purpose of English legislation, and American legislation has been cast on the same lines.

The father is proceeded against as a delinquent, and as a presumably irresponsible delinquent, and coercive measures are taken against him. At the same time, his duty is measured substantially by the standards of poor relief, and little thought is taken for the permanent welfare of the child.

Within the past few years—the agitation reaches further back in Scandinavia and in Germany than in this country—reforms in this egislation have been much discussed, and the time seems ripe for carrying at least some of them into effect; indeed, beginnings have been made in that direction. There are several distinct phases of possible improvement. An illegitimate child is likely to be born under conditions less favorable than the lawful child, and thus to be handicapped at the initial and most critical stage of its existence. Measures looking to

the betterment of these conditions stand, however, apart from the usual problems of illegitimacy legislation, which are concerned chiefly with the duties and the status of the father: they are probably more competently and effectually handled as parts of comprehensive schemes for infant welfare, and they do not call for the solution of difficult questions of law.

So far as the relation of the father to the child is concerned, two tendencies of reform agitation may be distinguished, the one endeavoring to remedy defects and inadequacies of existing legislation while accepting its fundamental thought and policy, the other seeking to place the law upon an entirely new basis. There are those who believe that paternity outside marriage entails far-reaching obligations toward the child, but obligations in no sense to be confused with those arising out of the family relation; while others contend that the law should, so far as lies in its power, wipe out the difference between legitimate and illegitimate birth.

The advocates of radical reform place great reliance upon the law of Norway, under which the father of every illegitimate child is compelled by the State to assume the full obligation that is owing to a lawful child. We are assured that this law not only has encountered no serious difficulty in its application, but also that it has proved a complete success. It is also possible to point to the recent legislation of North Dakota, which declares every child the legitimate child of its natural parents; but that law is not carefully worked out, and no data are available as to its operation.

It is proper that those of us who sympathize with the high ideals represented by the Norway law should make our position with regard to it clear. The view that the interest of the child is the paramount interest to which all other considerations should yield is not only attractive, but socially sound. The view, on the other hand, that in the interest of the institution of marriage the fruit of illicit relations must be penalized and made odious is intrinsically abhorrent. But it is clear that intense prejudices prevail upon the subject and that the practical difficulties in the way of indisputably establishing paternity in many cases are undeniable. Whether resting upon fancied or upon real grounds, the objections to legislation of the most advanced type are for the present insuperable. It will take time to win over that public opinion which counts in practical reform. If immediate results are contemplated, the goal set must not be unduly high. "The Castberg law or nothing" is not a practical program.

Yet if the Castberg law is the ultimate ideal, it should not be lost sight of. It deserves to be studied, and all friends of reform would be glad to know what it would mean in terms of American legislation.

Perhaps the best we can do is what we usually do in social reform; work for practical purposes, and keep ideal purposes in mind. We should work out an immediate legislative program and encourage those who insist upon further-reaching changes to formulate their demands in such manner that the principles and methods advocated can be clearly understood. Incidentally, this will mean that inevitable limitations will be brought out and impressed upon those who do not now realize them fully. Perhaps the working out will show that to be practicable which we now regard as impossible. It has been said that the good is the foe of the better; it is more often true that the better is the foe of the good. Let it not be so in this case.

As regards the immediate legislative program, the points in which the present law is defective are reasonably clear, and while as to some of them it may not be quite easy to discover a perfectly satisfactory remedy, there are others with regard to which the method of relief is simple, and the prospect of obtaining it reasonable. In setting forth this program, I shall first deal with changes in the present law concerning status, second with changes in the law of support, and third with a few novel proposals not covered by existing law.

And first, as regards the status of the child, two changes should be urged: (1) The term "children born out of wedlock" brings to our minds the common type of illicit relation in which there is no pretence of marriage. There are also cases in which the form of marriage is gone through, but where, in consequence of some element vitiating consent or of some legal impediment, the apparent marriage is void or voidable. The older law distinguished canonical and common-law defects. If the former were not taken advantage of during the lifetime of the parties the issue remained legitimate, and this applied particularly to marriage within the forbidden degrees of relationship; a common-law defect—particularly bigamy—bastardized the issue at all events. The distinction no longer exists, and where a voidable marriage is annulled and in all cases of void marriages, the issue is, in the absence of a saving provision, illegitimate. This state of the law is unjustifiable. The parties to the marriage, or one of them, may be in perfect good faith. There is a de facto family into which the children are born and in which they are reared. Their condition is totally different from that of the offspring of casual intercourse. The typical bastardy legislation is entirely unsuited to their needs. In these circumstances it is mere legislative wantonness to make the children undergo vicarious expiation of supposed parental iniquity, or pedantically to draw a premise to its logical conclusions. There may be cases in which one of the parents may be entitled to relief from the obligations of parenthood—as where an innocent part

has been inveigled into a bigamous marriage by gross fraud—and the equities of such cases should be taken care of. But ordinarily there is no reason why the offspring of a void or voidable marriage should not be treated as legitimate. Such is now the law of one-third of the States. It should be the law of every State.

(2) It is the law of nearly all the States that the marriage of the parents legitimates the child—a point in which the common law of England differs unfavorably from the civil law of continental Europe. But what of the contingency of the death of the mother making marriage after birth impossible? There ought to be a legislative provision for formal legitimation of the child by the father where marriage is impossible, and in other cases under appropriate safeguards. In other than English-speaking countries such provision is common. Adoption may furnish a substitute, though not a perfect one; but in States like Illinois, where a person may adopt only a child "not his own," it is doubtful whether adoption is available. The change proposed is a very simple one, and there is good precedent for it in the law of several States.

It is, of course, fully realized that the two defects that have been pointed out do not constitute an extensive social grievance; most of the cases undoubtedly, in one way or another, take care of themselves. But an unjustifiable state of the law is not excused by the fact that it may cause only occasional hardship.

Second, as regards proceedings to compel the support of children born out of wedlock: (1) Where juvenile courts exist, they should be vested with the jurisdiction over such proceedings. They are likely to have developed machinery and methods peculiarly adapted to this class of cases. Thus, they may afford the mother better protection from needless publicity and humiliation than other courts, and they may be in a position to exercise a continuing supervision and control over all parties concerned, securing the payment of support and seeing to its faithful application. This will be particularly true where appropriate divisions of metropolitan courts are organized for the purpose. The juvenile court has, at present, jurisdiction in illegitimacy cases in the District of Columbia and in Hawaii.

(2) In most States the provisions setting a time limit for the institution of support proceedings are unsatisfactory. If, as is commonly the case, the mother is barred from complaining by the lapse of a given period—often only one or two years—from the birth of the child, it is obvious that the father, by voluntarily contributing to the support of the child for this period, may thereafter abandon him without any fear of prosecution. The appropriate provision is to make the statute run from the time the obligation of support was last performed or acknowledged. It may even be contended that there should be no limitation whatever so long as the child is in need of

support; for the need of recourse against the father may arise only when the mother or her relatives have become unable to provide for the child, and this contingency may not arise until years after the birth of the child. The laws of Massachusetts, Maryland, Alabama, and Mississippi avoid the defect that has been pointed out. In Illinois the law was sought to be so amended at the last session of the legislature as to make the statute of limitations run from the last acknowledgment, but the amendment was finally made to read, "from the last acknowledgment *in open court*," depriving the change of any value. This serves to illustrate the occasional legislative attitude toward reform in this field.

(3) In most States the maximum amount payable by the father is too low. The influence of pauper laws and pauper support is here noticeable. The most liberal allowance is that of Utah—not exceeding $200 for the first year and not exceeding $150 per year for the next succeeding 17 years. Even this may fail to do justice in particular cases. The whole matter should be placed in the discretion of the court, or of the jury acting under the direction of the court. As in the case of breach of promise and of divorce alimony, the amount may justly vary with the means of the defendant, with this important difference—that the standard of support, so long as the child is in the custody of the mother and treated as her child, should be the mother's and not the father's station in life. If the child is to be reared in accordance with the means of a wealthy father, it would be more appropriate to have the father control the education. This adjustment should in any event be a matter, not of legislation, but of administration.

It should also be within the discretion of the court to direct payment either to the mother or to some one for her, as is now the law in England, and to authorize the acceptance of a lump sum in lieu of periodical payments. A compromise or settlement between mother and father should not be binding upon the mother without judicial confirmation, but should, of course, be taken into consideration in any subsequent support order.

(4) Most States have no provision for support to be paid after the death of the father, and the few that do, leave somewhat doubtful the circumstances in which the provision applies. Only Maryland charges a lump amount upon the estate of the deceased father. In many cases, of course, nothing can be secured from the nonexistent estate of an irresponsible father; but these cases may be left to themselves. It is difficult to see why a solvent father's obligation should not survive him. True, no legal obligation rests upon the legitimate father to provide for his child after his death; the law of intestacy may be set aside by a will. But the legitimate father is sure to pro-

vide for his child; the illegitimate father is likely not to provide, and the law should step in.

(5) How can the order of support best be made effective? The time-honored method is to require the adjudged father to give security for payment through the finding of sureties. In default of such security he is committed to jail. In many States this is clearly treated in part as punishment, for notwithstanding proof of inability to pay or give security the defendant must serve a definite time before he is entitled to a discharge. The discharge is without prejudice to further proceedings in case of subsequent ability. In those States in which noncompliance with an order to pay is treated as contempt of court, the matter is likely to work out in the same way.

For the purpose of enforcing a support order it is an advantage to treat the adjudged father as an offender. He may then, as in California, Delaware, and West Virginia, be set to forced labor, and a fixed amount in compensation of such labor be applied to the support of the child; or, as in Massachusetts and Wisconsin, sentence may be suspended upon condition of making periodical payments. Pennsylvania permits the application of these methods in the alternative; the father may be imprisoned at hard labor, in which case a daily wage of 65 cents is paid to a person designated by the court, or the court may discharge the defendant upon his own recognizance in the custody of a probation officer, or in case of willful failure to support, the court instead of imposing a fine may make an order for a periodical payment upon recognizance with or without surety, and may suspend execution.

In all these cases the bases of the proceeding is the conviction of a criminal offense. The delinquency that constitutes the offense is either, as in Massachusetts and Pennsylvania, the causing of the pregnancy of the woman, or, as in California and Wisconsin, the nonsupport of the child. The question, therefore, arises whether in all States the law should turn the support proceeding into a criminal prosecution.

(6) This question should be considered in connection with the problem of the absconding defendant. This is a peculiarly American problem, owing to the distinctiveness of State jurisdictions, and the facility with which an irresponsible person may change his domicile from one State to another. Suppose a man, having seduced a woman in Illinois, and being confronted with the prospect of having to support a child, moves to Indiana; he is now beyond the reach of the process of the courts of Illinois, in which State the child is likely to be born, and in which the duty of support will have to be performed. If paternity or nonsupport is treated as a crime, the crime is not committed in Indiana and a prosecution in the State in which the offender is has no legal basis. The offense of nonsupport, more-

over, is not committed in Illinois either, since at the time support began to be owing the father was no longer in the State. If an offense has been committed in Illinois and after its commission the offender goes into Indiana, Illinois may theoretically demand extradition. Thus, to be in a position to demand extradition, Illinois must have made it a penal offense to cause the pregnancy of an unmarried woman, or must find the elements of a criminal offense in some other act or default prior to the leaving of the State. It may not be impossible to create such an offense, as is shown by the example of Massachusetts and Pennsylvania; but by turning an illegitimate support proceeding into a purely criminal prosecution, certain procedural advantages that attach to a civil proceeding (default, evidence, etc.) are lost and there should be compensating advantages to offset that loss. In the case of the absconding father, the only compensating advantage is that of being able to demand his extradition. But the experience of family desertion laws shows that in misdemeanor cases it has proved practically impossible to obtain extradition, and one hesitates to recommend that the running away from a seduced girl be made a felony. So far as the absconding father is concerned, the net result seems to be that his security is rather increased than otherwise if his default is treated as a crime.

(7) In these circumstances the problem of the absconding father suggests another change in the law. At present the rule in the majority of States is that the mother may bring proceedings only where she resides or where the child is born. With this jurisdictional limitation, even though the proceeding is a civil one, the man who has escaped into Indiana can not be proceeded against where he lives, since that is not the residence of the woman, nor in Illinois where the process of the court can not reach him. The woman should be allowed to sue the man wherever he may be found, in order to have his paternity and his obligation of support established. A judgment to that effect would, under the Federal Constitution, be entitled to full faith and credit in all other States.

Illinois is one of the States that permit the woman to proceed in the jurisdiction of the man's as well as of her own residence. Unfortunately, the Illinois law does not reach into Indiana; the Illinois law, in other words, helps the Indiana woman where the man has escaped from Indiana to Illinois; it does not help the Illinois woman where the man has escaped from Illinois into Indiana. For each State taken by itself, therefore, the suggested law is an altruistic law; but a uniform law enacted by many States would make the benefit reciprocal. This is one of many reasons why we should have uniform legislation.

It thus appears that, for the purpose of most effectually enforcing the duty of support, different types of proceedings, civil and criminal,

may present relative advantages and drawbacks. It would seem to follow that a model law should, if possible, provide a variety of remedies, permitting according to the circumstances of each case the choice of the most appropriate one or a combination of several. It not uncommonly happens that the same state of facts creates a cause of action in law and in equity and also constitutes a crime, hence a cumulation of remedies is nothing unprecedented.

Third, as to possible provisions in the interest of the child not at present covered by the usual type of statutes:

(1) The most important of these would be the creation of some legal guardianship over illegitimate children. The State of Minnesota in 1917 made a beginning in that direction, resting appropriate powers in a State board of control and in county child-welfare boards. Her experience under the act of 1917 should be considered in planning legislation of this kind. We have not in this country, as they have in a number of European States, provision for ex officio appointment of guardians for minor children; and personally I should hesitate to advocate placing all illegitimate children indiscriminately under State guardianship, since such legislation would stamp them as a class apart and would thus run counter to the policy of not emphasizing the status of illegitimacy.

It should simply be recognized that the need of an illegitimate child for a guardian's care is apt to be greater than that of a child in the normal family group; and that the guardianship may be needed, not merely to guard against the possible improvidence of the mother, but also to protect the mother in her rights and to see that the father performs his duties.

If the institution of child-welfare boards on the Minnesota plan is adopted by other States, their utilization for illegitimate children would be natural and follow almost as a matter of course. The institution might be gradually developed, and the legal provisions should be correspondingly flexible, and the law should give to the court a wide discretion in directing the placing of the child under guardianship or dispensing with guardianship.

(2) Every effort should be made by the law to relieve the child of the stigma that attaches to illegitimate birth. In this respect, surely, the interest of the child should be paramount, and the abstract desirability of complete data for registration or statistical purposes should take a second place. Why should not a mother be allowed to state that the father of the child had deserted her before the birth of the child, and that she wished only her own name registered for parentage? In any event, reference to illegitimate birth should disappear from certificates, from the records of adoption proceedings—from all records, in fact, other than those of proceedings in

which the fact of illegitimate birth or the obligations resulting therefrom are the direct issue. This reform could be effected without difficulty.

The program of this conference speaks of children born out of wedlock. The term "bastard" is odious, and should disappear from the law; Minnesota in 1917 substituted the word "illegitimate." "Illegitimate" likewise has an undesirable connotation. The term "born out of wedlock" does not lend itself to adjective use. I should prefer the term "natural child"; and the support legislation might be designated by the term filiation or affiliation, following the practice of English writers. The importance of such verbal changes should be neither exaggerated nor underestimated.

I have referred to the possibility and the possible desirability of also outlining more advanced and ideal demands than those so far set forth. In dealing with these, I speak with little confidence and mainly by way of suggesting difficulties that others may regard as not insuperable.

One of these demands—realized, I believe, in the Norwegian law—is that in every case the paternity of the child should be established ex officio, so far as the power of the State can accomplish this. The child, it is said, has a right to this. If so, the right of the child overrides the right of the mother to a secret which she may be extremely anxious to guard. I do not feel disposed to adjudicate the priority between the two rights, but I am inclined to think that public sentiment is not sufficiently educated to recognize the prior claim of the child. It is, of course, nevertheless proper for those who regard the claim as paramount, to press it and win legislative opinion over, if they can.

The other principal demand is the radical one, that the child should have with reference to the father the status and the rights of a legitimate child. Waiving the difficulties encountered in an adverse public opinion, it is necessary to realize that the policy of general compulsory legitimation involves a revision of the law of testamentary liberty. In Europe a child has an absolute right of inheritance; in America it has not. The lawful child can count on the normal paternal instinct for a share in the inheritance, but a child forced on a man against his will is likely to find himself disinherited upon the father's death unless the law provides against this. Compulsory legitimation logically involves compulsory inheritance, and without this it is a precarious gift. The change of the law is theoretically possible. But is it likely that the child born out of wedlock would be accorded a right which the child born in wedlock has not? Even a legislature favorably disposed toward children born out of wedlock may object to a discrimination making their rights superior to those of the lawful child. A compulsory legitimation measure

must deal with the problem of the married father and his wife; with the question of the right of custody and education; and with the question of the name of the child. A very simple statute, such as that of North Dakota of 1917, can hardly be accepted as adequate, even if its procedural limitations did not render it rather impracticable. It would be interesting to see a compulsory-legitimation law formulated, if merely as a basis of detailed consideration and discussion; but the most sanguine advocates of such legislation will hardly venture to predict its speedy adoption in many States.

On the other hand, the reforms first outlined may be pressed with some hope of success. Some are likely to encounter only the obstacle of inertia; others will have to overcome legislative prejudice; still others may present some difficulty of adequate and practicable elaboration. But altogether they probably constitute a reasonable legislative program. Let those interested in the reform agree upon the points they deem essential and practicable; and let them then present their program to such a body as the National Conference of Commissioners on Uniform State Laws. That conference is a conservative and somewhat slow-moving body, but for that very reason a measure upon which it sets the stamp of its approval enjoys respect and confidence in an increasing degree as the years go by. It would be several years before a uniform law would be finally passed upon by that body; but it should then make a strong appeal to the legislatures of the several States.

WHAT IS THE PRACTICAL IDEAL OF PROTECTION AND CARE FOR CHILDREN BORN OUT OF WEDLOCK?

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I did not know whether I was to give the gospel in contrast to the law, or custom in contrast to the law, but I have decided to speak on the custom in contrast to the law. The family was established around the child long before there was any question of legitimate or illegitimate birth. The child and the relation of the mother to the child were the great facts, because the child would perish unless the mother took care of him, and the mother gradually established the family by tying the father of the child to herself and the child, and by degrees she brought about a fundamental change in the order of society. When the tribe was nomadic, and could do nothing but move on to a new place, when the pasture was exhausted or the hunting was poor, she said, "I can't go now because my children can't be moved." And she also said, "I can't feed my children wild boar all the time; they must have something else." And the mother insisted on waiting with her child until the crop was ripe; they waited for the winter to pass, and the man came back to them over and over again. Thus the idea gradually impressed itself that the child and the woman must live, whatever happened; that if the parent perished the child must

survive; and gradually the life of the child was prolonged. And that basic idea gradually changed the order of human society. The inhabitants in many parts of the world were changed from hunting-and-fishing into agricultural peoples. When an agricultural people was established, the whole question of property and inheritance developed, through which the making of a more and more definite bond between the mother, the father, and the child was achieved.

How far that very basic idea could be utilized in this moment of legal and ethical perplexity is, of course, a question. And on the other hand no one who lives among poor women who are continually being deserted or women who have children out of wedlock, wants to do anything that will weaken the family tie. It is tremendous, the struggle made by the primitive woman to attach the father to his child and to his obligation to his child. It would be better, perhaps, to have the occasional child suffer, or the woman suffer—as she certainly does—rather than to weaken that family tie bought with such blood and tears and effort, largely on the part of woman, through all the centuries.

Then, of course, one thinks of the other side. I have been thinking of a most striking case of suffering of that kind. One girl whom we all very much admired—very able, independent, very fine—had a child born out of wedlock. As a result of her effort to conceal the situation from all her family and former friends and at the same time keep her child, she did rough, hard work, and was imposed upon just because she had a child. People took every advantage of the fact that she was at a disadvantage, and she died of tuberculosis and left her child. That seemed a cruel waste. The girl belonged to the working classes, but she was of the finest type, and might have belonged to any class.

Then, I remember an Englishman whom I had occasion to know in various ways, a member of Parliament, who was of illegitimate birth. Nothing was known about it; people thought that he was of very honorable parentage in the north of England. In a great campaign, when the situation was very close and difficult, the fact of this man's illegitimate birth was brought out by a prominent magazine. It was very hard on his wife and on his growing family of six children. The older ones were in boarding school; they suffered all sorts of things. I happened to see this man very soon after that campaign, which was some years ago, and his despair over the situation was great—not for himself; he said that he had got away from that; it was the effect upon his children and upon their future, which was very black. And, of course, it was a hideous thing, a most unfair and a most unjust thing, and it quite made your blood boil. And there you are with the other side.

It is not only the law that is perplexing. It is this whole question of the public attitude in, I think, a very honest desire to protect the hard-won family and the acknowledged relation of the father to the group of children within the family, and at the same time not to be so unconscionably brutal to the people outside, especially the women and the children. At the same time we are confronted with the other horn of the dilemma. This Mutterschutz movement has a tremendous vogue in the Scandinavian countries, where the women have these great societies of married women and unmarried women together to discuss the common problems of the care of children, and, of course, more or less to specialize on children who need care most and on the illegitimate children. It is a perfectly humane, big-hearted, kindly movement. In Berlin was its first beginning, but it has not spread in Germany so well as it has in Scandinavian countries and in France. Of course, France is the great country where the Napoleonic law held longest, and inquiry into the paternity of an illegitimate child was not permitted. The woman was supposed to bear the brunt of the situation.

PROTECTION AND CARE AS A PUBLIC-HEALTH MEASURE.

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Very rarely has there been public discussion of illegitimacy from the point of view of public health. That, however, provides an approach which is more naturally and easily made than any other. Interest in the health of the child and the health of the mother is probably less resented by the persons concerned than interest in the moral or maintenance aspects of a given case. The public has come to accept the activities of the health worker with better grace, if not with greater willingness, than it accepts some other varieties of social work.

Infant mortality studies indicate that illegitimacy is a condition to be considered when studying the serious problems of infant care produced by industrial and social conditions which discourage breast feeding. Illegitimacy occurs under such a variety of conditions that it becomes an exceedingly complex subject to discuss. Yet, thinking back to the section meetings of the National Conference of Social Work, where for at least six years there has been intelligent discussion of the problem of illegitimacy, one is impressed with the similarity in cases. That statement will doubtless provoke a righteous protest from case workers who see infinite variety in the individual situations presented. The protest will be exceedingly useful if it succeeds in directing attention to the fact that, varied as their cases may be, they are but one subdivision of the entire group of children born out of wedlock. The nearest approach to an understanding of the social variations in illegitimacy is probably that of the supervising nurse in the health department of a city of half a million

inhabitants. Her knowledge is of necessity secondhand, being gathered from the reports of so-called child-welfare nurses or community nurses doing child-welfare work. In many cities, at least one routine call is made in every home in which a birth is reported, whether the birth be classified as legitimate or illegitimate. It is more than likely that a public-health nurse whose district is given reasonable limits would be able to discover cases incorrectly registered as to the item of illegitimacy, and, therefore, to increase the sum total of our knowledge regarding conditions under which illegitimacy now occurs.

Any national set of standards for the protection of children born out of wedlock, so far as it must be expressed in legislation, must take into consideration all children who have this birth status in common, but who may have little else in common. The unmarried mothers may differ widely in economical and educational status. However, the determining factor from the point of view of public health is present in every case, namely, the fear that the mother's friends and acquaintances will learn the truth. The most frequent immediate and serious consequence of this fear is the absence of breast feeding. A good economical and educational status makes this result even more probable than does poverty or feeble-mindedness. Every social worker has some knowledge that, in many hospitals and maternity homes of the better class, unmarried mothers or their relatives or friends are paying for secrecy. Various reasons are being assigned by the private physician for the mother's inability to nurse her child, when in reality the question of breast feeding was answered weeks before the baby's birth and answered in accordance with the mother's wishes, not in conformity to the probabilities nor conditioned upon later physical findings. The doctor has been converted from his professional policy, if he has one regarding breast feeding, to a profound sympathy for the unmarried mother who has begged permission to free herself, so far as possible, from the signs of her wrongdoing. To the doctor, there seems no alternative, since he recognizes no facilities for carrying out any other plan. The public health worker, therefore, encounters one of her first problems in the family physician.

The practical ideal of protection and care for the child born out of wedlock, viewed from the public-health angle, includes first of all a guaranty of breast feeding for at least three to six months, unless there are physical contraindications. To make this possible many social adjustments may be necessary. Among a large group of unmarried mothers—notably factory girls, clerks, stenographers, and all workers whose wages provide no margin for saving—it is economically impossible for the mother to appropriate six months of her working time in addition to the loss of time occasioned in the late

months of her pregnancy, to the obligation of breast feeding her baby, unless she is helped to make advantageous arrangements. Obviously it becomes the duty of the social order to provide plans which make breast feeding not only possible but in some degree acceptable to the mother. It will not be advisable to enact a law prohibiting the separation of a mother and baby unless, in the administrative machinery provided by that law, there is recognition of the duty of the public social workers to show the way to obey this law.

Following the nursing period provision must be made for physical care through making possible a proper diet, clothing which will afford the child adequate protection, and decent housing, with a margin for medical care proportionate to the ability of the father, and, in cases where his financial ability is not sufficient, medical care at a cost met by the combined financial ability of the father and the mother with such assistance as her relatives are willing to give. That being inadequate to meet the needs of the child, it becomes the duty of the community to furnish the necessary medical and surgical attention. No discrimination between legitimate children and children born out of wedlock should be made by hospitals and dispensaries. Hospitals for infants have, in some instances, refused to accept a child known to have been born out of wedlock, on the ground that the hospital was likely to be made in some degree a foundlings' institution. Any program for the care of children born out of wedlock should safeguard hospitals and similar institutions from the danger of being obligated to provide a different amount and type of service than that originally arranged for. In other words, if a hospital receives for care a child born out of wedlock and the mother deserts this child, the hospital superintendent should be in a position to have the situation taken care of without too much inconvenience to the hospital authorities.

The public-health phase of the illegitimacy program is unquestionably the one which the community as a whole will most readily accept. The community's responsibility to the child born out of wedlock can first be expressed in its public-health policy. Whatever differences there may be among laymen as to how the other aspects of illegitimacy should be treated, there will be rather general agreement about the child's right to be well born, to be given a good start, and to have such corrective work done for him as the most skillful physicians and surgeons can render.

REPORTS ON RECENT LEGISLATION.

THE SCOPE AND PURPOSE OF THE MINNESOTA LAW.

WILLIAM W. HODSON, *Director of the Children's Bureau, Minnesota State Board of Control.*

In 1917 Minnesota passed several laws relating to the subject of illegitimacy, among others a statute governing the legal procedure in the establishment of paternity. This statute became effective January 1, 1918; it is, in effect, a redraft of the earlier law on that subject, certain old provisions having been eliminated and certain new features added in the light of recent experience in Minnesota and elsewhere. The year 1918 was spent for the most part in trying to get our bearings, and the year 1919 is the first in which the laws functioned to an extent that gives us the right to say anything about the new practice. It has seemed to me, in the short time that I have been connected with the work in Minnesota, that the problems of administration are really tremendous and most perplexing. A law that gives a decent minimum of justice to the child and a fairly adequate procedure is only the beginning, because the difficulties of administration have overwhelmed us on more than one occasion.

In broad outline, the method of establishing illegitimate parenthood in Minnesota is quite like that which prevails in other States. The complaint may be filed by a pregnant woman before or after the child is born. The law differs from some others in that some one other than the mother may file a complaint—the agents of the State board of control or a member of the board of county commissioners. However, this compulsory method has been but little used. If the woman is an unwilling witness, she may easily make it impossible to establish even a prima facie case. We have found public officials reluctant to enforce this provision, in spite of the fact that in many cases it is justified in order to protect, so far as possible, the rights of the State and those of the child. It seems to us in Minnesota that compulsory testimony, in spite of its practical difficulties, should be allowed. Clearly, the will of the mother alone should not be final as against all other interests.

The preliminary hearing is before the justice or municipal court and its purpose is to sift out and dismiss cases which lack merit. This preliminary hearing may be in private. On the whole, privacy has not been the general rule—the justice uses his own discretion. If the preliminary hearing shows that there is "probable cause" to believe the defendant guilty, the case is transferred to the district court for trial. It is impossible to escape the feeling that this preliminary hearing is unnecessary and often does the girl or woman real harm. In Minnesota over 50 per cent of the defendants waive

the preliminary hearing, this being their right—the woman, of course, has no such right. If the case is certified to the district court, she must tell her story twice and be cross-questioned each time. In both courts she may have a large audience. During 1919, out of approximately 250 cases, only 24 were dismissed in justice or municipal court. It is not clear why the county attorney could not be relied upon to eliminate the complaints which should not be tried, so that the case may be heard but a single time—in the district court.

It may be well at this point to say that the Supreme Court of Minnesota has ruled that the illegitimacy law is not, in substance, a criminal statute, though it has the form of one and though the procedure is analogous to that followed in the case of crimes. The proceeding is a civil action to adjudicate a status and fix a paternal responsibility, not to punish illegal conduct. Fornication is the offense and is tried separately. There is trial of the issue by jury, but the verdict is based upon a preponderance and not upon proof beyond a reasonable doubt. Our experience confirms us in the belief that the matter is, on principle, of a civil nature and that there are practical advantages in so regarding it.

When the case is tried in the district court there is no requirement in the law for private hearing. This is a serious defect which will probably be remedied at the next session of the legislature. In a recent trial, though the attorneys on both sides requested it, the court room was not cleared, and a young girl was on the stand for two days, on the first of which she had a large audience and on the second one still larger.

The more contact one has with these cases in the district court the more convinced one will be that so unique a proceeding seems somewhat out of place in that court. It is quite outside the regular court cases for the adjudication of property rights or the trial of crimes. There is always much need for investigation outside the hearing. A court with socialized training and equipment seems more fitted to appreciate the implications of illegitimate parenthood. Moreover, the cases present problems of such variety that accumulated experience is invaluable. This is particularly true where there is a sharing of responsibility between the courts and an administrative agency, such as the State board of control. The hope for remedy in this regard lies mainly in the cities, for the rural situation could hardly be organized socially—at any rate, for some time to come. Perhaps the juvenile court, where it is presided over by a district judge, or a court of domestic relations—as has been frequently suggested—might hear paternity cases. My own feeling is that a change must come eventually, and I know that many courts would welcome the relief.

The form of judgment in Minnesota differs quite radically from that which generally prevails. If the defendant pleads guilty or is found guilty, "he shall [in the language of the statute] be adjudged to be the father of such child and henceforth shall be subject to all the obligations for the care, maintenance, and education of such child and to all the penalties for failure to perform the same, which are or shall be imposed by law upon the father of a legitimate child of like age and capacity." It will be noted that this judgment merely defines the status of paternity and imposes a general obligation; it does not fix a sum to be paid. The jury, however, is permitted to fix the amount of expense incurred by the county for the care of the mother during confinement and for the care of the child prior to judgment. The mother is also allowed a civil action against the adjudged father to recover her confinement expenses, including suitable maintenance for eight weeks before and after the birth of the child, as well as burial expenses, if the child is stillborn or dies. The Minnesota law is defective on this point, however, in that the expenses for confinement and for the care of the child before birth are frequently borne by private charitable agencies and not by the county. Thus, if the judgment of paternity is not entered until a year after the birth of the child, the man is not liable for the child's care during the year, unless the county has provided the money. This is seldom the case. The law should permit a money judgment to be entered for all necessary expense incurred in behalf of the mother and the child up to the date of judgment, and this should run in favor of the person or organization which paid the bills or provided the service. A civil action by the mother has not been filed as yet in any case, and the provision probably will not have a very wide use or application. It seems to be a right worth preserving, however.

The fact of the entry of judgment is reported, under our law, by the clerk of the district court to the State registrar of vital statistics, and the name of the father is then entered upon the birth record. The completion of the birth record logically follows from the establishment of paternity. The birth records and the records of the court in these cases are safeguarded from public inspection.

While the judgment imposes an obligation upon the illegitimate father similar to that of the legitimate father, the law must recognize that there are fundamental differences in the relationship of father and child in the two cases. The law can fix responsibility, but it can not create affection or sense of obligation. The custody of the child as between its parents will nearly always be in the mother. On principle, it seems just that the illegitimate father's responsibility should be no less than in legitimate parenthood, but the actual facts of the situation make the determination of the responsibility in

dollars and cents and its enforcement a most perplexing problem. A settlement may be made between the duly appointed guardian or the board of control on the one hand and the adjudged or acknowledged father on the other, with the final approval of the court. The sum received is in full discharge of all obligations, civil or criminal, in behalf of the child.

The language of this section of the law seems to authorize a lump-sum settlement (or payment by installments with security) of the judgment obligation, or a similar settlement before judgment or perhaps before a proceeding has been begun. Such is the practice. But the courts have gone further and have construed the law to cover cases where no lump sum is to be paid but where a month-to-month contribution is agreed to. The general release of liability is usually made contingent upon those payments being continued until the child reaches the age of 16 years. This third form of settlement is used in perhaps 75 per cent of the cases in Minnesota.

The settlement is voluntary with the defendant; he may refuse to make any agreement, and in the event of his failure to provide an action for nonsupport will lie and the court may then fix the amount to be paid during a probationary period. In our experience, the refusal of the defendant to make a definite agreement of some sort is very rare. The trouble usually is that he is very ready to agree but not so ready to perform. The initiative in making the settlement is usually taken by the board of control after investigation of the facts; and the money is almost always paid to the board or to its agents—the child-welfare boards—and is disbursed as needed, under supervision.

The chief difficulties involved here are not due to the law, but are inherent in the situation itself, with all its human complications. To mention only a few: Shall the child and mother remain together; and if not, what is a fair settlement under the law? How shall the eagerness of the man and the woman—as well as of the public officials concerned—for a quick and frequently inadequate settlement be met and defeated? When should settlement be made, in order to avoid publicity? What shall be done when the man has a family and is not earning more than a bare living? As between the lump sum and the monthly payment, the former is safe and sure in any contingency; the latter is not. From a good-for-nothing man $500 may be worth more than 50 actions for nonsupport; and yet the payment of $500 is not adequate nor within the spirit of the law. We are constantly being faced in these cases with problems which seem almost insoluble, and these problems will arise regardless of the nature or type of the law involved. The solution lies, of course, in the development of well-trained and efficient administrative agencies. An inadequate law well administered will bring far greater results

than an adequate law poorly administered. Neither the law nor the court is sufficient unto itself in these matters, because the social phases of illegitimacy have an important bearing before and during the legal proceedings as well as after.

The State board of control has, in a purely experimental way, set the sum of from $2,000 to $3,000 for lump-sum settlements, and of from $15 to $20 a month for monthly payments until the child reaches the age of 16 years. In practice these standards have sometimes been sorely abused, though the board seldom agrees to a lump sum under $1,000, save for the most unusual reasons. Between $1,500 and $2,000 would probably constitute the average, the highest settlement being just under $3,000.

In this connection the strength of the law lies in its flexibility and the use of an administrative agency to assist in nonlegal matters; the weakness, in the fact that the settlement is, after all, only an agreement, which, while it bears the approval of the judge, does not have the force or effect of a judgment or order and carries no penalty for violation save the loss of immunity from prosecution for nonsupport. The value of the child-welfare boards is strikingly shown at this point. Where there are good boards with trained workers, as in the large cities, these agreements are being enforced with striking success, because there is contact with the mothers and prompt prosecution for default on the part of the fathers. In the rural communities the settlements by monthly payment lapse more frequently owing to lack of supervision. Agents from the State board of control in St. Paul obviously can not control a situation outside St. Paul as efficiently as a child-welfare board located in the community.

The question of whether the court should be empowered to issue money judgments for support has frequently been raised by our county attorneys, some of whom prefer the dignity and authority which such a judgment or order would carry. In the absence of an administrative agency, either local or State, I should heartily concur in that view; yet under such conditions it would be interesting to know how fully the orders would be complied with, how frequently the woman would fail to make known and prosecute default, the number of instances in which a separate understanding between the parties greatly modified the court's order, and—not least important—the analysis of the amounts of money allowed under such judgments, especially where a lump sum was involved. Under our present law the State board of control may refuse to accept (and frequently does) the amount offered in settlement. This has resulted in several instances in raising the amount. In others no further settlement was attempted, and the matter was left to the negotiation of the parties for monthly payments. In one case a judge appointed as guardian of the child its own mother, who was a minor; and she accepted $300

in settlement. Under our law the duly appointed guardian may accept settlement. This provision is seldom used, fortunately, but it nevertheless opens the way to evasion of the spirit and intention of the law, and may do harm sufficient to offset any good purpose intended by including it. There is truth in the claim that a child with a guardian does not need the protection of the State board of control or anyone other than the guardian, but an agency constantly dealing with such problems would be better qualified to act than the average guardian.

In the year 1919, approximately 900 cases of children born out of wedlock came to the attention of the State board of control. During the same year, 229 legal actions to establish paternity were instituted. Of this number there were 145 judgments of paternity; of these, 109 were based upon a plea of guilty, and 36 were found guilty after trial. There were 11 acquittals, and 73 cases were dismissed principally because the men involved could not be found. In 1918, during the first year's operation of the law, there were 129 legal actions begun, 47 convictions, 2 acquittals, and 80 were dismissed cases. In 1917, the year just prior to the enforcement of the new law, there were 111 actions begun, less than half the number in 1919. The convictions were 51, a little more than one-third of the number in 1919, 8 acquittals and 52 dismissals. The convictions in 1917 constituted 36 per cent of the total cases, and in 1919 they constituted 63 per cent. It seems fair to assume that the existence of administrative machinery has played an important part in the results achieved.

The spirit in which any law is interpreted frequently determines the extent to which its provisions are successfully enforced. It was, therefore, no mere idealistic fancy which led to the following statement of purpose which is contained in the Minnesota law:

> This chapter shall be liberally construed with a view to effecting its purpose, which is primarily to safeguard the interests of illegitimate children and secure for them the nearest possible approximation to the care, support and education that they would be entitled to receive if born of lawful marriage, which purpose is hereby acknowledged and declared to be the duty of the State; and also to secure from the fathers of such children repayment of public moneys necessarily expended in connection with their birth.

In any discussion of the Minnesota law relating to the establishment of paternity it is important to consider other laws, most of which were passed at the same time, which have a direct bearing upon that procedure and which support and supplement it.

Prior to 1919, a single act of sexual intercourse was not a crime. The word fornication was defined under the earlier law as cohabitation between a man and a single woman. The supreme court regarded cohabitation as something more than intercourse upon one occasion. It was a common thing in illegitimacy proceedings for the defendant to call several witnesses, each of whom would testify to intimacy with

the complainant. Frequently such testimony was trumped up for the occasion and was offered with impunity by reason of the act of intercourse having happened but once. It must be recognized that the new law may impose some hardship upon defendants who seek to establish their innocence of the charge of parenthood. On the other hand, it will tend to prevent much false testimony. Regardless of this, however, the moral sense of the community demands that the law be as it now is and, apart from the question of the birth of a child, irregular sex relationship of any sort must be prevented, so far as possible.

The present law also has a bearing upon the statute making the abandonment of issue of fornication a crime. If fornication involved a course of relationship, as implied in the word cohabitation, the abandonment law would be of little use. In fact, the two laws were not passed at the same time in Minnesota. The law relating to fornication was the earlier, and the very objection cited above was raised in the first case under the abandonment of issue law. There have been probably half a dozen charges brought under the abandonment of issue of fornication law. In at least two cases, extradition was obtained and convictions followed. The crime is committed when the defendant leaves the State with intent to abandon issue of fornication. Such conduct is a felony and extradition is more readily obtained. Prof. Freund has raised a most interesting legal objection to the validity of this law, but the matter has not been passed upon by the Supreme Court of Minnesota. In practice, it has been difficult to get public officials to act under the law. Action is expensive and is regarded by some as not being of sufficient importance to warrant the effort. On the whole, by reason of the new obligations imposed upon illegitimate parenthood, county attorneys report an increasing tendency on the part of men involved to leave the State. Hence the need for a method of returning them and for the enforcement of that method when they can be found—many men have a facility for complete disappearance.

The nonsupport and desertion law has been mentioned before in connection with the enforcement of support for children born out of wedlock. The law was so amended as to make this possible and has been frequently used with success. In this connection, it is worth noting that under our so-called State-aid law, which provides financial assistance to the dependents of men who are in prison, support has been secured in several cases for dependents born out of wedlock. In more than one instance, a man who has been convicted of fornication and has been adjudged to be the father of a child born of the crime has contributed out of his prison earnings to the child's support, and State aid has also been given. The State board of control has adopted a very liberal policy in this regard.

Maternity hospitals, infant homes, and all child-helping and child-placing societies are licensed by the board. The hospitals are required to report all births and to designate those which are out of wedlock. The cases handled by the board are largely those reported in this way. Physicians are not required to report births in the same way, and as a consequence many births which occur in private homes never come to the attention of the board unless the mother herself undertakes a prosecution, in which case the county attorney usually reports the facts. By regulation, hospitals must require their patients to nurse infants at the breast so long as the patient remains in the hospital; this means three months in the maternity homes which largely receive unmarried mothers.

The birth-registration act requires the reporting of all births to the board of health. A public record of births, to which anyone may have access, is required, but this record does not disclose any facts in regard to legitimacy or illegitimacy. A full birth certificate can only be obtained upon order of the court. Unfortunately, our local registrars of vital statistics have not been fully informed and instructed as to this act by the State board of health, and the board itself has been indifferent to the requirement for a public record of births, which involves much extra expense and labor for both State and local registrars. The fatal defect in the law is that it does not provide an adequate fee for the local registrar, and the State office gives insufficient appropriations as a reason for indifference.

To prevent promiscuous barter and sale of children born out of wedlock, no person or agency is allowed to place children without a certificate so to do from the State board of control, which testifies as to the fitness of such person or agency to do that work. The old method of transferring rights and duties in children by written assignment has been abolished, and such transfer can be effected for children under 14 years of age only by an order or decree of court. The juvenile-court act makes a child of illegitimate birth a dependent child by virtue of his illegitimacy, and, hence, in proper cases a suitable guardian may be appointed through order of that court.[1] This latter provision will soon be reviewed by our supreme court. The basis of the appeal is that dependency must be a question of fact not of legal status, and that the rights of a mother can not be abrogated simply because she is unmarried. There is much soundness in the contention; nevertheless, the law is often a real protection for the child and when wisely administered is not likely to do violence to any suitable mother. It offers a means of holding the mother and child under the court's supervision and thus insures a degree of protection for the child that might otherwise be impossible.

[1] See State of Minnesota, ex rel; Blanche Mattes and James W. Mattes, petitioners, *v.* the juvenile court of Ramsey County and G. N. Orr, designated judge thereof, respondents. (November, 1920.)

Enough has already been said in this paper to indicate the important part played by administrative machinery in protecting the interests of children born out of wedlock. Our law makes it the duty of the State board of control to "take care that the interests of the child are safeguarded, that appropriate steps are taken to establish his paternity, and that there is secured for him the nearest possible approximation to the care, support, and education that he would be entitled to if born of lawful marriage. For the better accomplishment of these purposes the board may initiate such legal or other action as is deemed necessary; may make such provision for the care, maintenance, and education of the child as the best interests of the child may from time to time require, and may offer its aid and protection in such ways as are found wise and expedient to the unmarried woman approaching motherhood."

The board is then given authority to create a department to perform this duty, among others, and a further provision permits the creation of county child-welfare boards upon the request of the local community. The welfare boards have such duties as may be conferred by the State board of control and there is a consequent centralization of responsibility with more or less decentralization of administration. Out of a total of 86 counties in Minnesota, there are 50 with child-welfare-board organizations, and these vary in efficiency according to the local conditions. Not over 10 boards have paid workers, those boards located in the large cities being the best equipped in this regard. They have done a most admirable work. An organization in the community can establish close contact with its clients, can reach them quickly and at an early stage, and can establish a working arrangement with county officials when legal procedure is contemplated. No part of the work in Minnesota has been more successfully conducted than that which relates to cooperation between the boards and the county attorneys who prosecute proceedings to establish paternity. All such cases are referred by the county attorneys to the board; in fact, most of them originate with the board, and all settlements by mutual agreement are first approved by the board before being passed upon finally by the State board of control. We feel that our local boards of child welfare are indispensable to our plan for the protection of unmarried mothers and their children.

THE NORTH DAKOTA LAW OF 1919.

LILLIAN GRACE TOPPING, *Superintendent of the Florence Crittenton Home, Fargo.*

We know that we have been very much on the map in many ways during the last two years in North Dakota, and we feel that we have been working practically alone in the State. When Mr. Hodson talks about not being able to have the law administered, I sympathize with him more than he knows. One reason why we have no data on the

working of the North Dakota law is that there is no organization in the State which has been handling this problem direct except the Florence Crittenton Home, and it has been simply impossible to get many data regarding the working of the law. Another great reason is that the State's attorneys practically refuse to do anything. I suppose of the cases that belong under our care, numbering between two and three hundred a year, more than half really never come into our hands. The cases are provided for before they come to us. An attorney will take the case of a girl and settle it, sometimes for one, two, or three hundred dollars, and if there is ever a bigger settlement than that, the attorney as a rule collects the money and pays it out for the expense of the care of that prospective mother. And of the cases that do not come to us at all for care and confinement, many are settled, the child is disposed of, and we hear nothing about it. So we are working at a great disadvantage, not having any State organization such as the Children's Bureau of Minnesota. We envy them, and I envy all you people who are working in the cities. We have a rural problem. No city in the State is larger than 25,000, and the only one that large is the city of Fargo, where the Florence Crittenton Home, which is quite a large organization, is located.

I will read, for the benefit of those not familiar with it, a paragraph of the law that was passed in 1917:

> Every child is hereby declared to be the legitimate child of its natural parents, and as such is entitled to support and education, to the same extent as if it had been born in lawful wedlock. It shall inherit from its natural parents and from their kindred heir lineal and collateral.

Let me give you Mr. Tenneson's interpretation of the terms in the first section of this law, "Every child is hereby declared to be the legitimate child of its natural parents," and of the last sentence of the third section of the law, "but all children hereafter born in this State shall be deemed to be legitimate." Therefore, since July 1, 1917, on the assumption that the legislature heretofore had the right to declare children born out of wedlock illegitimate, the legislature now has the same authority to declare all children born in or out of wedlock legitimate.

Another feature: Heretofore a child born out of wedlock was the heir of the mother only and could not inherit from the father unless paternity had been acknowledged in writing signed in the presence of a competent witness. In this law the child born out of wedlock is placed on an equality with children born in wedlock and is entitled to the same support and education.

We had one or two interesting cases, one a few weeks ago which one of the attorneys was trying to settle for $250. That happened to be one of our cases and we refused to accept any such settlement.

The matter went along for about a week, and then the young man came down to the institution with some friends, and we talked the matter over. He came up to $500, and then to $700. I said: "It will do you no good to talk along this line, because you know that you will have to support this child, no matter what amount of money you pay the girl." It was quite a shock and surprise to the attorneys, for they were going to make a test case. They decided something would have to be done, and the young man finally paid $800 to the girl for her expenses, and then an action was taken. This young man simply signed a paper saying he was the father of this child and nothing was said about support. Now, they are bringing action for the support of the child, just as though it had been born in wedlock. We feel that we have accomplished quite a good deal along this line.

AMENDMENTS TO THE ILLINOIS LAW.

JEANNETTE BATES, *Assistant Attorney General of Illinois.*

For 47 years no substantial amendments were made to the illegitimacy law in Illinois; the last session of the legislature made a few. We went before that legislature, as social workers have gone for 25 years past, with comprehensive bills, and we were able to get but a few amendments through.

The right of action in Illinois was limited to single women. The right has now been extended to the married woman. For the mother of the illegitimate child the amount of support in Illinois heretofore was $550. We succeeded in getting the amount doubled, so that the maximum support the child may receive in Illinois is now $1,100, $200 during the first year of its lifetime and $100 a year for the nine following years. We succeeded in having court jurisdiction extended to courts handling juvenile-court cases; that we considered rather a substantial advance. Now these cases may be handled in the juvenile-court branch of our courts. In Illinois, however, the juvenile court has not exclusive jurisdiction, but only concurrent jurisdiction, so it has to be made a matter of local arrangement with the State's attorney, whether or not we can have cases handled in the local juvenile court.

The right of action heretofore was limited to two years after the birth of the child, and many States still have that two-year limitation. We tried to get through a provision that prosecution under this act shall be brought within two years after birth, but that in cases in which the father has acknowledged the paternity of the child, prosecution may be brought at any time within two years from the last time such acknowledgement of paternity by the reputed father was made. Unfortunately before passing it the legislature killed it in effect by putting in the provision "where the reputed father had acknowledged in open court," so that the extension of time which we had hoped to get was practically nullified.

The fourth amendment passed limits the right of the mother to make a settlement which shall be binding, unless it is for at least $800. No settlement can be made out of court which is binding, and no settlement can be made in court without the approval of the court for a sum less than $800.

We are not at all proud of our record in Illinois. We are very much ashamed of it, but it has not been for lack of effort. We meet with a great deal of prejudice in a State with a city as large as Chicago. It is almost impossible to overcome prejudice in legislatures on this subject. As you see, we have succeeded in getting some slight advance in a period of 50 years.

RECOMMENDATIONS OF THE MISSOURI CHILDREN'S CODE COMMISSION.

GEORGE B. MANGOLD, *Director of the Missouri School of Social Economy, St. Louis.*

The vital statistics of Missouri indicate that about 2.25 per cent of its births are illegitimate. In the larger cities, however, the rates are much higher, while in the rural districts the proportion is about 1.1 per cent. Nevertheless, the recorded rates are usually considerably lower than the actual rates, and the problem is a more important one than the statistics seem to indicate. The State has been peculiarly backward in its legislation concerning illegitimacy and at the present time makes no provision for paternal support for the child born out of wedlock. It even goes so far as to provide that the reputed father's name shall be omitted from the birth certificate. In an effort to meet this general situation the Missouri Children's Code proposed a series of bills covering the various aspects of this problem. The proposed legislation was based on the theory that the status of illegitimacy should be abolished, and followed in many respects the provisions of the Norwegian law. Among the provisions of the bills were the following:

1. That the child born out of wedlock be granted the right to the establishment of its paternity through proper court proceedings.

2. That in order to avoid blackmail these proceedings should not be begun except with the special permission of the court, and that proceedings be brought during the lifetime of the putative father. It is also provided that the proceedings shall be conducted in private, and the court papers be kept separate.

3. That the child born out of wedlock be given the same right of inheritance from its father as from its mother. This provision, however, would not prohibit a father from disinheriting one of his children by will if he so desires.

4. That the court shall determine the proportion of support to be paid by the father and the mother.

5. That questions relating to the paternity and support of such child be brought before the juvenile court.

6. That every child be deemed in law the child of its parents, whether born in or out of lawful wedlock.

The original children's code bills contained a provision whereby, in case the actual paternity of the child could not be established, the court was permitted to place the liability of support upon those men who were shown to have had sex relations with the mother during the period when the child must have been conceived. This rather drastic but justifiable provision was so strongly opposed by the legislators that the bills, when introduced into the legislature, omitted it. The bills could not have been passed if this provision had been included. However, these bills were not enacted into law and, therefore, very little was gained by the omission. The published report of the commission did contain this provision and began the process of educating the people of the State to a recognition of the need for drastic legislation.

The experience in Missouri has no value from the point of view of treatment of illegitimacy, since none of the bills have been enacted into law. The attitude, however, of the code commission and of those who have supported the bills is significant. When legislation is enacted it will be along progressive lines. In 1917, the State-wide mothers' pension law very carefully omitted the use of the word "husband" or "wife," in order that no discrimination might be made on the illegitimacy or the legitimacy of the child. The proposed legislation is all in accordance with the same idea—the abolition of the status of illegitimacy and the placement of full responsibility for the education and support of their children on the parents. We believe that in this way the number of children born out of lawful wedlock will be reduced, and the unfair discrimination against the so-called illegitimate child largely subside. However, our program is still one of the future, and we are not speaking of the things that have been accomplished. The code commission will work before the next legislature, as it worked before the last one, for a similar series of measures.

BIRTH REGISTRATION AND ESTABLISHMENT OF PATERNITY.

DETERMINATION AND RECORDING OF PARENTAGE.

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In the course of 20 years' experience, the Juvenile Protective Association has frequently been called upon to take action in behalf of unmarried mothers who needed advice and protection. During this period the association has interested itself in the cases of over a thousand babies who were born out of wedlock. My point of view and much of the material presented in this paper is, naturally, based upon this experience, but since there are many conflicting opinions on this subject, what I have to say will be largely empirical.

The question has been asked, should an effort be made in every case to determine parentage and to make it a matter of official record? At the outset it may be pointed out that such a procedure is not entirely untried in this country. Under the birth-registration law in New York State the certificate states whether the child is legitimate or illegitimate, and also the full name of the reputed father. In North Carolina the name of the reputed father can not be entered without his consent, but other information regarding him may be entered. In Minnesota the name of the father is entered, but only subsequent to his conviction in court. In North Dakota every child is by law the legitimate child of its natural parents, and the surname of the child is that of his father.

Reasons favoring the universal determination and registration of paternity might be briefly summarized under various aspects in addition to those which are legal:

In the first place, the registration of paternity would be the legal basis for a consistent State program in behalf of illegitimate children. Six years ago the Juvenile Protective Association made an investigation of 500 bastardy cases in the court of domestic relations. The investigators found that the starting point was the legal court record, and they were at least able to begin with the real names of the father and mother, even when the mother had lost her case. They found also that the difficulties were miminized when the unmarried mother had preferred a charge of bastardy and had thus made her case a matter of court record, and that the child involved in the court case also had a better chance for survival than in the case of successful concealment—for the death rate among illegitimate children is twice as high as that among legitimate children. In court cases, the situation having been openly faced, the mother more often retains her child or it is cared for by relatives. The

public determination and recording of paternity would, therefore, be the initial step in a legal scheme and an integral part of an automatic plan to safeguard the child born out of wedlock.

Recording of paternity may also be advocated on sociological grounds. This means that children who are now handled anonymously would be treated as persons. Various surveys made by the Juvenile Protective Association have shown that illegitimate children are often treated as chattels instead of as human beings, and that as a result of this impersonal attitude they are frequently lost, sold, or abandoned. The study which the Juvenile Protective Association made in 1914 revealed that at least one-third of the three thousand illegitimate children born each year in the registered hospitals of Chicago were lost so absolutely that it was impossible to find any trace of them—even whether they were living or dead. Of the many other illegitimate children born each year in the so-called "private hospitals" and in even less reputable places, or of those children whose very existence is concealed by distracted mothers and trusted physicians and midwives, there was, of course, no record to be found, the absolutely inadequate system of birth registration in vogue in Illinois easily lending itself to such concealment.

That this situation had not essentially changed in 1917, when the Juvenile Protective Association made its baby-farm investigation, is shown by statistics taken from its report. Out of 337 children found in baby farms, 108 (or nearly one-third) were illegitimate. Of these 108, 93 were placed in these commercialized baby farms because their unmarried mothers wished to hide their existence. Of 6 children who had been abandoned in these farms, 5 were illegitimate—fictitious addresses had been given by their parents, who were never heard from again. Four illegitimate children had been placed in the farms for the purpose of having them sold or given away. One was sold on the instalment plan, like a Victrola, for $100 and taken out of the State. Another was offered to an investigator for $18. One of the protective officers, visiting several of these homes, had with her a pregnant woman for whom she wished to find a place during confinement. Some of the persons in charge of the farms offered to dispose of the child, when born, for sums ranging from $15 to $65 and stated that no questions would be asked. They did not even wish to know the mother's name, in fact, they told the prospective mother that they preferred that she should give a fictitious name and address.

We register the paternity of prize cattle and hogs, of thoroughbred horses and high-priced cats and dogs, but we have allowed human beings who, through no fault of their own, were born out of wedlock, to go through life only half registered. Is it not time

to break away from the traditional point of view, which considers illegitimate children only in terms of their possible dependency on the State, and begin to treat them as human beings?

Public recognition of paternity also appears desirable from the point of view of heredity. When one recalls the history of such notorious families as the Kallikaks and the Jukes, and remembers that two different strains always converge in the child, it would seem valuable from the point of view of eugenics to know what contributions, for good or ill, have been given each child, in order that he may be most effectively helped. I remember one subnormal girl who had given birth to six illegitimate children, five of whom were also subnormal. All members of this girl's family showed signs of subnormality. Abnormal or subnormal conditions are not limited, however, to mothers, and only a full knowledge of facts relating to both illegitimate parents will enable social workers to deal intelligently with the offspring.

Something similar might be said on this topic from the point of view of social hygiene. In these days, when advanced legislation contemplates the compulsory reporting and treatment of venereal diseases, is it too remote to suggest that, in cases where innocent children are infected, a (legal) knowledge of their paternity may prove helpful, not only in the specific case but in a larger social sense?

Official recording of paternity might also disclose valuable data for statistical purposes. Ascertained facts regarding the father's age, race, color, marital status, occupation, economic position, religion, and whether or not this is the first offense—collected over a long period—might prove of distinct service in discussing the wider ramifications of the problem. The results of the census and of birth registration are now thus used in the treatment of problems that are nation wide in scope.

The economic implications of registration, both from the point of view of the community and of the individual are perhaps obvious.

The social angle is illustrated in a Juvenile Protective Association report on "The Care of Illegitimate Children," published in 1912, where it is stated that, "Prof. Irving Fisher of Yale puts the potential value of every child at $4,000. Here, then, annually in Chicago $4,000,000 are being tossed out of sight." While these figures may be incorrect to-day, there can be no question that a gigantic monetary loss is yearly sustained by society, owing to our indifference to the future of children born out of wedlock.

Public establishment of paternity might likewise often be of material assistance to the individual child, particularly if the inheritance features of the North Dakota law are adopted. It would also serve as a sort of leverage in case a man abandoned his responsibility in a given instance and later offended a second time. A current case in

the Juvenile Protective Association is that of a man who deserted after one illegitimate child was born and who is now being sought to answer for a second offense. A public record of the man's responsibility in the initial case might make treatment of a second offense more effective.

The ethical bearings of illegitimacy ought also to be recognized. Without quibbling, it may perhaps be said that in many cases the man and the woman are equally responsible. In the Juvenile Protective Association report on bastardy, written in 1914, it was stated that "after a careful study of the bastardy cases brought into the court of domestic relations, it was quite impossible to reach the old-fashioned conclusion that the man was always the aggressor and villain." The joint responsibility of the man and woman may, therefore, be assumed. Hitherto the woman has suffered most. Her name goes on the birth certificate; the months of mental and physical suffering are borne by her; and the social ostracism which she frequently endures does not often touch the father of the child. Should the man not share in the unfortunate conditions for which he as well as the woman is responsible?

A final, minor point which is mentioned mainly for the purpose of discussion pertains to sentiment. Last week an officer of the association spoke of the case of a young girl who, after months of mental suffering, finally committed suicide because she could not ascertain her parentage. There is a curious tendency on the part of young people to dwell upon their parentage. Instances are known where persons have spent large sums of money and much time in the vain endeavor to learn of their parents The question is: Would it not be a wiser policy for the State to place at the child's disposal information regarding his parentage, regardless as to whether it is good or bad?

I should like now to suggest a few views which are unfavorable to the practice of officially determining and recording paternity:

Many fathers and mothers possess resources which enable them to give children born out of wedlock every consideration and advantage. Should such parents be compelled to be publicly labeled in a way calculated to make them lose caste—if they are anxious to do everything possible for the child, without compulsion? In our study of illegitimacy, mention is made of the exceedingly large number of illegitimates born to those who by virtue of wealth and position, are enabled to shield themselves from public knowledge (a conservative physician places the percentage at as high as, or higher than the rate for the poor or middle class). A Juvenile Protective Association officer told me only recently that at a certain institution with which she was acquainted, the superintendent had stated that,

without question, many of the children under her care were the offspring of persons who possessed wealth and an assured social position.

This view of illegitimacy goes back, of course, to the old English law; and it is also reflected in the present statutes of many of our States, where action in bastardy cases is not pressed by the State unless the baby seems likely to become a public charge. While it may be true that, in specific instances, illegitimate children of wealthy parents may never be neglected, is not the question the broader one of securing justice for all illegitimate children, regardless of their possible dependency or of the economic status of their parents? And can the interests of the whole group be protected, except by procedure and legislation that is universal in its character?

Closely related to the above view is that held by certain individuals who believe that illegitimacy is at least a semiprivate matter and that embarassing publicity should not be given it unless the interests of the child are threatened. In regard to this, two things may be said. First: That apparently the one way to make sure that the child will not suffer is to enact preventive legislation to forestall suffering rather than remedial laws to ameliorate it. Second: That in different places records of paternity are not open to the public but are available only on order of court. Section 1225 of the Municipal Code of Chicago provides that information filed shall be kept in a secret record not accessible to the public except on a certified order of a court of competent jurisdiction. In some places even the proceedings are of a semiprivate character. These safeguards would seem a sufficient protection to the parties involved.

Another objection is that possible injustice may be done the reputed father. Here, again, two suggestions may be made. If the record is to be based simply on the statement of the mother, she can be heavily penalized for making false declaration of paternity. In Norway, imprisonment for two years is the maximum penalty for this offense. The other safeguard is suggested by the Minnesota law, where statement of paternity is not recorded until the man is convicted. This objection deserves thorough discussion since the theory of our law is that any defendant is presumed innocent until proved guilty.

The question arises whether the father's "label" is likely to prove embarrassing to the child, particularly if he should assume his father's name. Frequently the child lives with his mother, who has no legal right to the father's name. Will the difference in names prove a constant reminder of the child's illegitimacy, and thus cause distress? Is it preferable to have determining and recording of paternity without giving the child the use of his father's name, or should such use be made optional? If optional, should its use begin at birth or should the child choose for himself at maturity which name he shall bear?

Perhaps the most fundamental question involved is the effect of this advanced legislation upon our social institutions. If the illegitimate child is to become "to all intents and purposes a legitimate child" will the result be good or bad on children born in wedlock? Will it lessen or increase the significance and utility of marriage? Can legislation, unless it overwhelmingly represents contemporaneous public sentiment, overcome the social sanctions and accepted points of view which it has taken centuries to develop?

Prof. Freund states that "the normal legal relation between parent and child involves the social foundation of a lawful or de facto marriage; without this it is in fact a different relation—a fact which no dictate of legislation can alter * * *. It thus appears that the practical consequences of assimilating the status of the illegitimate child to that of a legitimate child are limited. And this is what may be expected of an attempt to alter by legislation social conditions and concepts."

In regard to the machinery to be used in determining and recording paternity, details can not be given here; but, to be effective, I believe that the method should be compulsory in its nature and universal in its application.

Perhaps a record ought not to be made on the unsupported statement of the woman. The difficulties involved here were recognized in the statutes of certain States which accepted the statement of the woman if made during travail. Some reasons for this view are here briefly summarized. Our officers sometimes find that in certain foreign groups, where a girl normally looks upon marriage as a goal, she will not report the father if he is a married man.

Again, where there has been promiscuity the name of one man should not be emphasized, but, as in Norway, all culpable parties should be made responsible. Otherwise, the wealthiest offender or the most popular may be named. We also occasionally find girls of an exceptionally high type who refuse to disclose the name of the father, whom they may perhaps love, preferring to assume the burden alone. One girl interviewed said that she "didn't want Jim to go to jail." The attitude of Hester in The Scarlet Letter finds occasional repetition to-day in the views of unmarried mothers.

The mentality of these women may also tend to make their unsupported statement unworthy of credence, "for mental disorders in the mother follow illegitimate births twice as frequently as those which are legitimate." The study made at the Cincinnati General Hospital, and published by the National Conference of Social Work, concludes "that not more than 20 per cent of the unmarried mothers can safely be pronounced normal. Of the married mothers about 50 per cent may be so considered. From 40 to 45 per cent of the unmarried mothers are almost without question so low grade mentally

as to make life under institutional care the only happy one for themselves—and the only safe arrangement for society." It would seem to be a hazardous procedure to accept the declaration of all unmarried mothers unless there were some corroborating evidence.

On the other hand, the women could be penalized for making false statements; or the record of paternity could follow conviction; or the record could be kept secret, pending verification. Even under our present law, bastardy action can be brought on the unsupported testimony of the prospective mother.

Who should initiate proceedings? To be effective, the State should assume the responsibility of starting action. The statutes of New York and New Jersey, under which a woman can be imprisoned for refusing to divulge the father's name, demonstrate that it is inexpedient to rely upon individuals to begin action. Our bastardy study showed that many unmarried mothers, especially of the foreign groups, are too ignorant of their rights and of the facilities provided for their protection to be left to handle their cases alone. Girls are sometimes exploited by unscrupulous attorneys, who take advantage of their ignorance and social plight to charge unreasonable fees.

Finally, as a wise social policy, there appears to be a legitimate function for the State to perform in behalf of all its future citizens who may chance to be born out of wedlock. How this is to be worked out should be carefully considered. It is possible that, in Illinois, our State Department of Public Welfare could become the central body for carrying out this work, utilizing various designated county or municipal groups—somewhat as in Minnesota, where this duty seems to be centralized in the State board of control, operating through subordinate agents. By this plan, physicians, midwives, unmarried mothers, hospitals, maternity homes, social agencies, and reputable citizens having knowledge of the facts would be required to report all cases coming within the law

I feel that the law should not be retroactive, but that after its enactment it should automatically function in every case and that no time limit is necessary during which proceedings can be instituted.

In conclusion, it may be said that it is perhaps a comment on our sense of justice that, until recently in the United States, there has been little legislation bearing on the status of the illegitimate child's relation to its father or greatly altering the father's obligations. We still continue to brand the innocent baby with the title of "bastard"; we call him illegitimate, though, as Judge Castberg says, it would be more just to brand parents as illegitimate. We do not give the child a right to inherit property and, what is more important than all, except in a few States we do not even give him the right to a name unless it is that of his mother.

I should like to see bastardy, which is now in most States only a civil action, be made a misdemeanor and extraditable. I should like to have the father, if found guilty, pay a certain sum, for a period not to exceed 14 years, to the mother of the child or to the guardian appointed by the court, for the support and education of the child, and, in addition, pay the mother's expenses during confinement and for fully 6 weeks before and after confinement. The defendant should give a bond to this effect, the bond to be renewed every two years

Of 163 bastardy cases studied in the Chicago court, where the man was found guilty, in only 17 cases was the maximum payment ordered and in only 12 cases was it paid. It would also be an excellent plan if both plaintiff and defendant in a bastardy case could be put on probation to the court, not only that the father and mother might be kept under some kind of supervision but that the interest of the child might be watched and safeguarded.

TYPES OF PROCEDURE FOR ESTABLISHING PATERNITY.

Discussion.[1]

Chairman: Hon. VICTOR P. ARNOLD, *Judge of the Juvenile Court of Cook County (Chicago).*

Judge ARNOLD. Our next topic is Types of Procedure for Establishing Paternity—civil, criminal, combination of civil and criminal; from standpoint of child's protection—action brought in court having jurisdiction over dependent, neglected, and delinquent children; chancery hearings; procedure when father acknowledges paternity. I am now going to ask the local groups to give us their reports with reference to that topic.

Miss DRURY. The paternity shall be established in every case where possible, through an authorized public department.

Proceedings shall be instituted on application of the mother, or by an authorized public department through information received from birth records or reports from maternity homes.

The proceedings shall be special proceedings held in a court handling cases involving family relationships, such as a court of domestic relations, juvenile court, etc., where the proceedings will be primarily concerned with the welfare of the child.

The laws fixing the jurisdiction in these proceedings shall be amended to include children of unmarried parents in the definition of dependent children, and to provide for hearings in behalf of the unborn child and for hearing cases of adults for the establishing of paternity.

The court hearing shall be closed to the public except on request of either party.

There shall be a two-year limit on the period during which an action may be started to establish the paternity of the child except that there shall be no limitation against the State or child.

The law covering the nonsupport and desertion of a legitimate child shall include the child born out of wedlock.

Miss BINFORD. Except by voluntary agreement, it does not appear practicable to establish paternity through informal court procedure.

[1] To economize printing, the discussions at the conferences have, in general, been omitted. The discussion on types of procedure for establishing paternity is here given because no papers on the subject were presented. For full names and official connections of the persons taking part, see p. 155.

Action should be brought against the will or without the consent of the mother only where the child's support becomes chargeable to the public.

The action should be brought in the juvenile court, if such court exists.

Either civil or criminal proceedings should be provided for, to be resorted to according to circumstances.

Established practices of juvenile courts should be followed to shield the mother from unnecessary publicity and humiliation.

The present limitation provisions should be altered.

The possibility of reaching absconding fathers through civil proceedings should be studied.

Miss MARSHALL. Court procedure, by which the mother and father can be heard in regard to the parentage of a child born out of wedlock, is not recommended in every case.

It should be left to the discretion of the authorized State agency, or to the agency authorized by it, to determine whether court action should be instituted or not.

Proceedings to establish paternity should be instituted by the mother. In case of her unwillingness, and the welfare of the child requires, an authorized State agency, or such agency as it may authorize, should institute proceedings.

Proceedings should be brought in the court which is best equipped, with probation or other social service, to handle the problem most effectively. As civil courts are seldom so equipped, such proceedings should be brought generally in the criminal court, juvenile court, or court of domestic relations having jurisdiction over nonsupport cases.

The hearing should be as informal and private as possible.

It should be possible to bring action to establish paternity at any time during the minority of the child or until the child is selfsupporting.

The law should provide for the extradition of absconding fathers.

Mrs. BROYLES. The circumstances in the case should determine whether or not effort should be made to establish the paternity of a child born out of wedlock.

The State board of charities should have discretion as to the types of cases in which court action should be initiated.

The State board of charities should have the power to initiate court proceedings.

The proceedings to establish paternity, and to secure support for the mother during confinement and support for the child during its minority, should be in the juvenile court. The juvenile court should be empowered to handle prenatal cases. If extradition is necessary, action should be taken in the criminal court.

In order to protect the mother from unnecessary publicity and humiliation during the court proceedings, the hearing should be private.

There should be no limitation on the period during which action may be brought to establish paternity.

In order to apprehend absconding fathers, extradition proceedings should be instituted as mentioned above.

Miss HUTZEL. Informal court procedure would be cumbersome and invaluable except in cases of admission of paternity.

Some form should be devised for signature in cases where paternity is admitted. Other cases would necessarily come up for formal court hearing.

It is not desirable to have court action in all cases.

Cases where there are several men known to have been intimate with the woman about the time of conception.

Cases where there is a question of the woman being a competent witness (question of mentality).

Cases where mother is married to man other than father of child and the husband is willing to care for child.

Proceedings should be instituted by woman pregnant with, or delivered of an illegitimate child, by her parent or guardian, or by the county representative of State board of corrections and charities (county agent).

Proceedings should be quasi-criminal.

The first hearing should be in the municipal court, cases should be referred from this court to probate court, as the nearest approaching a domestic relations court.

The mother should be protected against unnecessary publicity and humiliation during the hearing by requiring private hearings.

There should be a limitation of the time during which action may be brought. It is recommended that action be brought at any time until the child has reached the age of five years; that in no case shall it be permitted that action be brought after the death of the person charged.

Present Michigan statute on family desertion should be amended to include the child born out of wedlock.

Judge ARNOLD. The question is now open for discussion.

Mr. HODSON. I wonder if there are not some very decided reasons why the procedure should be civil and not criminal? I am not referring now to the question of the procedure itself, but to the substance of the proceeding. I think that the matter of the substance of the proceeding is the important thing, though there may be some matters of the procedure that are equally important. From the practical point of view, Mr. Chairman, it has seemed to some of us that, if you are making the proceeding a criminal proceeding in substance and make it necessary to prove paternity beyond a reasonable doubt, then you have imposed a handicap which is peculiar to this particular type of case. As has been said before, the normal case is the girl who charges that a certain man is the father of her child; he denies the charge and there is no further evidence and the judge instructs the jury that unless they find beyond a reasonable doubt, they are not in a position to make a finding.

Now, I am taking the judgment of our public officials in Minnesota, our county attorneys, on the point, and they say that it would be very difficult to secure a judgment if proof beyond a reasonable doubt is the requirement. On the other hand, there is something to be said for the defendant. Shall we make this procedure so easy that the man has no chance at all? On the whole, I think we are justified in saying that in Minnesota the civil procedure has had real advantages, and that it has not worked to the disadvantge of the defendant.

Judge ARNOLD. That is the civil procedure?

Mr. HODSON. The civil procedure—civil in the substance of it.

Mr. HULL. Those are exactly the ideas that I entertained for a long time. I always felt it was putting too great a burden on the State. As so often happens, we had only the girl's statement against the man's. I have changed my ideas for two reasons. One is, I have been informed that in the State of Massachusetts they did change their law in regard to proof by preponderance of the evidence

to proof beyond a reasonable doubt without increasing the difficulty of securing a conviction. And I have also come independently to the conclusion, from observing juries and talking informally to jurymen after the case was over, getting a line on their mental processes and finding that they do not very much weigh in the balance the difference between the two types of proof. In fact, I find, after you have arrested the man and his case is coming up for adjudication, that about the only chance the man has is either in having some power vested in the district attorney to nolle the case or in having the proceedings begun by some State or quasi-public organization to weed out the unworthy cases. I think that in almost every case involving the fixing of the paternity of the child that goes to a jury of 12 good, conscientious men the jury will believe the woman. I have never known, in 10 years' experience, where a case of that kind was lost.

Miss BATES. I have not assisted in the prosecution of a very large number of cases of this kind, but I have not thought that, when a case was very hotly contested and went to the jury, it was very easy to get a conviction. While the result has been very good in cases of personal injury, or other cases where a woman is the plaintiff, I do not think it so at all in bastardy cases. I do not think juries are nearly so apt to decide with the woman in that kind of case. I think their prejudices are against her.

Judge ARNOLD. As a matter of fact, don't they take jury trials in preference to a trial before a court, because the defendant feels that he has a better chance of avoiding his legal obligations by so doing?

Miss BATES. Yes. I would like to state a part of what was incorporated in our report—Prof. Freund's own view of this action, which I think has not been given here. Prof. Freund's idea is that every State should have two forms of action, the civil and the the criminal. He sees no reason why we can not have both in every State. Then you can choose a civil action or a criminal action, according to the facts that are present in the case. I believe that is possible in California. At least, it is true in a good many other kinds of action—one can have both, if there is no legal objection to it that anyone can see, and it seems as though it were quite desirable.

Mr. HODSON. May I ask Miss Bates what are the advantages of the criminal form?

Miss BATES. Aside from the question of extradition I do not see any. I think the civil is preferable unless extradition is involved; then I see no way of getting around a criminal action.

Judge ARNOLD. As a matter of practical working out of the theory of the jury trial, has it not been our experience that it requires

evidence beyond a reasonable doubt in these cases, even though it is a civil suit? What has been your experience, Mr. Smoot?

Mr. SMOOT. In many cases that is true. A jury is demanded many times, usually in a hotly contested case, by the defendant's attorney, because he thinks he has a better chance of acquittal for his client before 12 men than he had before the judge; and it has not been my experience that there is always a finding of "guilty" in these cases and a finding for the mother. On the contrary, if the case is closely and hotly contested, there is always a very good chance of a verdict for the defendant. That has been my experience, and I think it is rather general in this country.

Mr. HULL. I want to add something in the matter of the preferability of the criminal action, and that is that it removes this type of action from the kind that attorneys can handle for private profit, making it incumbent upon the state's attorney to handle the case. I think that is the way it should be. I do not think representation in cases of the kind which require establishment of paternity of the child and fixing support ought to be a matter of private profit for attorneys. Our experience in Cleveland has been that where private attorneys have handled those cases they have usually settled them for much less than we would think of settling them for, because they want to get their fee out of the case just as easily and quickly as they can; and they usually have about the same fee in any event, so that even a relatively small amount of money gained for the mother and the child would mean the same fee to them. And, further than that, if the matter comes up on the criminal docket, it is disposed of much more quickly than if it is on the civil docket; there is not as much likelihood of delay, because the criminal docket is kept moving much more rapidly. That is true in Cleveland, and I assume it would be true in almost any large city.

Mr. SMOOT. It makes a great difference whether or not you are establishing paternity and securing support in the same procedure. If it is merely establishing paternity, I see no reason for proceeding in the criminal court. In fact, I do not see how you could unless there is some crime involved. If it is merely establishing paternity, there is no reason why it should not be done as a civil proceeding or action.

Judge ARNOLD. In view of the fact that the penalty is money damage, it is support; it can be enforced just as effectively in a civil proceeding as it could in the criminal court. If it is enforced by a court of chancery the failure to pay is contempt of court, failure to comply with the court's order; and you would have in addition the supervision of the child in a court of chancery, which is not the least part of this question. And I think the congestion of calendars is more or less a local situation. Here in this State a bastardy proceed-

ing is a civil action; it has not even been held to be quasi criminal. The supreme court has held that it is a civil action. We would have no difficulty here in trying those cases, either in the civil side or the criminal side of our court, because they would make up, and do make up, a special calendar of those cases, and give them precedence over other cases. It is only a question, in my opinion, as to which is the more effective—the civil or the criminal procedure. The extradition question is quite a feature. There are some States where it is difficult to get extradition in cases which are not purely criminal. These cases that I cite are cases of abandonment of wife and child. Some of the governors of some of the States, some years ago, in 1902 or 1904, met and decided that they should look into those cases very carefully. Miss Low can tell you the difficulty they have had in extraditing in those cases, even on indictment, because nobody had committed a great crime. All the man had done was leave his wife and children, and they were slowly starving to death. But if in a case of that kind there is some overt act, it is a different proposition.

Miss DRURY. May I ask a question? Suppose it is decided to have the proceedings in the juvenile court, will the action be civil or criminal?

Judge ARNOLD. It is a chancery proceeding in the Chicago juvenile court.

Miss DRURY. We were discussing jury cases. I was wondering whether other cities have the experience that we have. A very small percentage of the cases ever come to jury trial. I think less than 10 per cent ever come to a jury at all, and a good many of those are settled during the proceeding. Won't you get more benefit in the end by discussing the question from the standpoint of the other 90 per cent rather than from that of this 10 per cent?

Miss LUNDBERG. I should like to ask, Judge Arnold, what you think would be the advantage of having these cases in the juvenile court?

Judge ARNOLD. The advantages I see would be so definite that we could not or should not consider trying them anywhere else; that is, if you are thinking of the child, and perhaps of the mother. Some of these mothers are not beyond reformation. I have thought of this several times this afternoon, and have asked about the follow-up system of supervision after the trial of the case. It is no different, in my opinion, from any other case that you try. You make your investigation first, and the judge enters the order. That order is not effective; that order is not going to support the child; that order is not going to guarantee to the community or that child care or support or anything else. It is the carrying out of the order that is important. And you have your problems; you have the child and the

mother. The mother may be quite young, may be a ward of the court. If she is, she may be supervised. If she is not, perhaps the child can be supervised. Perhaps we can take an interest in the family problem in that case. Some intelligent, sympathetic probation officer can visit that mother and child frequently. So I think the advantages of having these cases in the juvenile court are that we can stay with the case and, if necessary, appoint a guardian for the child; and we can see that the money is paid to the guardian, and that every dollar of the money is used for the advantage of the child—its support and education. It is really the State's responsibility. Many of them, though their paternity has been legally determined, in reality have no father. Legally they have, but the fathers are not going to do any more for them than the court's orders indicate. They are going to provide some money, which after all isn't very much. So I think the big advantage in the juvenile court is in having these cases tried where there are facilities for investigation before trial and for supervision after trial. I think there is no other place to try them as a matter of fact.

Miss BATES. Don't you think that the machinery which our courts have developed in handling the mothers' pension law could be made a valuable asset in guiding the proper expenditure of support money?

Judge ARNOLD. No question about it.

Miss BINFORD. Would you not have to file a petition for every child to have probation? Just your bastardy proceeding would not enable you to place that child or mother under probation?

Judge ARNOLD. I think not, under the present law. No; it would require the filing of a petition and probably in many cases the consent of the mother to the supervision—that is, the consent of the mother to the appointment of a guardian over the child. It could be worked out very easily.

Miss DRURY. I should like to ask for Judge Arnold's reaction to the definition of "dependent child." Is it to be amended to include children born of unmarried mothers?

Judge ARNOLD. Does the Minnesota law include illegitimate children in its definition of dependency?

Mr. HODSON. We have what we call "dependency in status" and "dependency in fact." "Dependency in fact" is perfectly clear. "Dependency in status" is dependency by virtue of having only one responsible parent. And I may say that on that point there is a considerable body of legal opinion that is adverse to such a definition, because the assertion is made that it is unconstitutional to deprive a mother of her child merely because the child is born out of wedlock. We have never had a supreme court decision on that.[2] But on the other hand, a provision for dependency because of status has been

[2] See footnote, p. 47.

very valuable in Minnesota. I should regret very much to see it overruled in the supreme court.

Judge ARNOLD. The bringing within the definition of dependency of an illegitimate child does not, as a matter of fact, deprive the mother of the custody of it.

Mr. HODSON. No. But suppose a petition is filed in the case of an illegitimate child, and you, as judge, find that child is not dependent in fact, but is dependent by virtue of illegitimacy. You then appoint a guardian; and the mother may appeal, on the ground that such a law deprives her of her constitutional right. An appeal on a case of that kind is being prepared at the present time.

I can cite one or two cases in point. In one case the mother refused to nurse the child for the required period. A petition was filed alleging that the child was dependent by virtue of its illegitimacy, and the court cited the mother and the child before it, and told the mother it would continue the case for a certain number of months; pending that time it expected her to nurse the baby, and she did so.

The provision, by virtue of its breadth, and when properly administered with intelligence and discretion, gives you a handle on your illegitimacy problem that you can acquire in no other way. At least, that is our experience. It is not always possible to show, within the terms of the law, that you have dependency in fact. The mother may be, to a certain extent, providing for that child; it may be that the child is not, in the strict sense of the word, neglected; but if, by virtue of the status of the child, you can give the court control over the mother in the care of the child, it aids in the administration of the law on that subject.

Mr. HOSFORD. In Kansas, if the court finds the child is without proper parental care, that is covered by law. There is a clause that if the court finds a child is without proper care and guardianship, the court may take custody. An illegitimate child becomes a ward of the court only when there is some reason for filing a petition. For instance, when the mother is not giving the child proper care, or has not the proper conditions surrounding the child, a petition is filed; and if the court finds the child is without proper care, the court may take custody, not because it is illegitimate, but because proper care has been withheld from the child.

Judge ARNOLD. That would come under the general definition.

Mr. HODSON. I do not mean that we do not have the general definition in Minnesota. We do; but we have that other, in addition.

Miss DRURY. I would like to hear Mr. Hodson's reaction to the proposal to give the juvenile court jurisdiction in illegitimacy cases.

Mr. HODSON. I feel that anybody who goes into court and listens to one of those cases, when it is presented before the ordinary courts of general criminal or civil jurisdiction, must be struck immediately

with the fact that that case is in the wrong place. I have never yet listened to a case without coming away with the feeling that that court was not the proper place to adjudicate the status of paternity. It is foreign to everything that a court of general jurisdiction does. It involves issues that are not in any sense related to the ordinary business of a court of general jurisdiction; it involves things that have been mentioned here with reference to a need for investigation, proper reports to the court, and follow-up. Therefore, I am perfectly clear in my own mind that a court of general jurisdiction is not the place in which to present those cases. Now, in regard to whether it ought to be the juvenile court, there seems to be a series of things and points that need further discussion. Certainly it ought to be a court that has social experience. Is it wise to bring to the juvenile court, which is concerned primarily with questions of ordinary dependency, neglect, and delinquency, also these proceedings which very frequently involve jury trials, and so on? I am evading the question somewhat. My short answer is: It ought not to be as it is, and it ought to be a socialized court. I want more light on just what court it should be.

Miss Low. There are family courts with their special divisions where cases of this class could be tried under one of those special divisions. But there surely ought to be one place where everything could be heard pertaining to the family, whether it is against the father or against the child or the mother, or whatever it might be. In Chicago, in our domestic relations court, we can not live through a proceeding of that kind without leaving the court room with a sense of shame and humiliation beyond compare. The court room is crowded to overflowing; standing room is at a premium; there are many young men and young women sitting around; some of the lawyers talk to the gallery. Whereas in the juvenile court everything is quiet and dignified, and the child has a private hearing.

In making it a criminal proceeding, we will have to charge the father of the child with committing a crime—distinctly a crime. Therefore, if he has been guilty of a crime in bringing that child into the world, what is the status of that child? A child conceived in crime, and so publicly acknowledged. It seems to me the place for the procedure is the juvenile court. So far as probation is concerned, you can't get around that fact. Supervision of the child, placing the child in the care of a probation officer, is indirect supervision of the man after all, because the officer is going to keep in close touch with what the man does for that child.

Mr. Hull. In the handling of an illegitimacy case in the juvenile court of Cook County, when you proceed against an adult, don't you proceed under the rules of criminal evidence?

Judge ARNOLD. The procedure under the statute gives the judge that jurisdiction—quasi criminal.

Mr. HULL. If a man is charged with nonsupport of his illegitimate children, can't he demand a jury trial? And if he does, don't you have to observe the rules just as strictly as in any other criminal procedure?

Judge ARNOLD. All cases involving neglect and dependency of children in this State are virtually submitted to a jury. In other words, if it is charged that a child is dependent and neglected, it can not be removed from its home and placed in an orphan asylum or industrial home without first having obtained the verdict of a jury.

In this State we chop up the family problems into many parts; we try one here and one there. When we try the problem of the child we attempt to educate the parents during the course of the hearing. But these various family situations are not all tried out in my court—merely the care of the child.

As to the question of procedure when the father acknowledges paternity—what should be done there? I suppose that involves the question of whether he should be permitted to come into court and make this admission without a formal hearing, suitable and appropriate provision being made for the child—in other words, a settlement of the case with some limitations; or whether you should follow the same procedure in that case as in other cases.

Mr. HODSON. In Minnesota we find all sorts of difficulty in that particular situation. Citing a case: Here is a man who acknowledges paternity and agrees to pay $15 a month or $20 a month for the support of the child. In three months he is tired of the bargain, and we institute a proceeding for nonsupport—which is our method of enforcing it. The court promptly tells us that without judgment of paternity an action for nonsupport will not lie, that the mere acknowledgment of paternity is not sufficient to offset the common-law rule, and that it is necessary to have a judgment of paternity. We had assumed that acknowledgment of paternity without judgment could enforce further action for nonsupport. I make the point that if you get acknowledgment of paternity, and no judgment, you may run into difficulty.

Often a man will say, "If you don't take this to court and make a public proceeding of it, I will pay a certain amount for the care of the child." The question then arises whether you have enough to gain by what the father will give to make it desirable not to establish paternity, or whether there are other reasons—sentimental or otherwise—that make it desirable to insist upon having that adjudication.

Judge ARNOLD. What does that acknowledgment of paternity consist of?

Mr. HODSON. For purposes of inheritance, in Minnesota, the father acknowledges his paternity, in writing, before two witnesses. It doesn't make any difference to whom, but in that form.

Judge ARNOLD. Don't you find that that has a tendency to create opportunity for blackmail, if there is no judicial official or some other officer present?

Mr. HODSON. I am not able to say, from my experience, what the situation is on that point. That is the law and has been the law in our State for a number of years. Of course opportunity is present for blackmail in every case, in any event.

Miss MARSHALL. The Cleveland conference felt that the law should forbid private settlement out of court, in order to protect the mother from settlements she does not understand and that may cut her off from any further settlements later.

Judge ARNOLD. I think we should be very generally agreed on that question, that settlements should be made in the presence of the court, with the sanction of the court.

RESPONSIBILITY OF THE FATHER AND OF THE MOTHER.

THE FATHER'S RESPONSIBILITY TOWARD THE CHILD.

Discussion.[1]

Chairman: JOEL D. HUNTER, *General Superintendent of the United Charities of Chicago.*

Mr. HUNTER. I will, in the beginning, state the method of procedure which we hope to follow in bringing out discussion on various points which are suggested.

Shall the father have the same responsibility as though the child were born in wedlock? Application of general nonsupport and desertion law. Continuing jurisdiction of the court; probation; other methods of enforcing payment of support; lump-sum payments; settlements out of court. Inheritance rights; the right to father's name.

In our method this morning, I think it will be well to ask each one present representing a group to make a statement for his group, then discuss that statement and the points made in the statement while they are fresh in our minds. I wonder if Miss Drury, from Milwaukee, would give her report for that group?

Miss DRURY.

Subject to the discretion of the court and depending on the condition of both parties, the father of a child born out of wedlock shall have the same financial responsibility for his child's support as though the child were born in wedlock; the needs of the child to be met completely or as far as possible in accordance with the financial ability of the father.

He shall be held liable under the general nonsupport and desertion laws.

The court shall have continuing jurisdiction during the age of dependency of the child both in regard to custody and support with power to revise its orders as changing conditions may necessitate.

Supervision accompanied by an order for periodic payments is usually the best method for securing regular contributions from the father.

The court shall have power to accept lump-sum payments in full for a support order or to accept cash payment in lieu of an order for support to be paid out in regular installments for the support of the child.

The law shall forbid private settlements out of court.

Mr. HUNTER. Shall we discuss this report? Miss Drury suggests that the financial liability of the father should be the same as though the child were born in wedlock. What difference of opinion is there on that subject?

Miss BATES. The Chicago report did not quite agree with that. I can not give our stand definitely, but it was the feeling of our local group, and its recommendation, that the responsibility should be

[1] To economize printing, the discussions at the conferences have, in general, been omitted. The discussion on the father's responsibility toward the child, considerably abbreviated, is here given because no papers on the subject were presented. For full names and official connections of the persons taking part, see p. 155.

to provide the child with suitable nurture and ample provision for his education, according to the State standards of education for children; but the father need not necessarily be held to the same measure of responsibility in furnishing support as in the case of the legitimate child. For instance, what is reasonable support under our divorce laws for a child is in accordance with the financial standing of the parents, and if the father is a millionaire, what is necessary for the support of the child would be a very liberal allowance. I think we remember a case recently where courts in New York, I believe, would have said $50,000 a year was a reasonable and necessary allowance for the support of the child. Now we feel that the child's nurture and education must be taken care of and amply provided for, but that beyond that we would not place the child on exactly the same footing. If the father were a millionaire we wouldn't say it was absolutely necessary for him to make a millionaire's provision for his illegitimate child.

Miss DRURY. We tried to keep in mind all classes of cases and meet it in that way, giving the first consideration to the needs of the child.

Miss BATES. My objection isn't to the principle, but to the framing of it. I think you framed it so as to bring it clearly within the ordinary rules of court for the other cases. At least it seems so to me.

Miss DRURY. We do not believe that the father should be given the same responsibility for the illegitimate child. We think that is impractical.

Mr. HUNTER. You agree with Miss Bates that it is just a question of phraseology? The committee which is to frame resolutions will bear that in mind. If there is no difference in our ideas we need not argue as to phraseology at this moment.

Mr. STONEMAN. I wonder whether all of us agree in principle to that as an ideal or as the practical necessity of to-day? Are we not, in the course of the next generation or two, gradually going to come to a point where the child born out of wedlock will be treated more or less as it is theoretically in North Dakota, the child having just as much right as the child born in wedlock. For practical purposes I imagine that you can not now give the child born out of wedlock the same right because of the attitude of society and the various conditions that exist. But we to-day, as I understand it, like to consider the ideal toward which we are working as well as the possibility of a practical bill that may pass a legislature and carry some power of enforcement.

Mr. HULL. I think the Milwaukee conference was not thinking so much of millionaires as they were of the young man of small earning power, or a man already with a wife and perhaps a family of legiti-

mate children for whom provision must be made. Did not Miss Drury have that in mind when she spoke of the circumstances of the father? I think it is worth while considering frankly the question as to whether or not we do not want—and in my opinion the trend is in this direction—a condition in which every child will be given an equal chance, so far as possible—actually an equal chance. Now, is it not true that we are going to come to a time when the child now called illegitimate will be given an equal chance with the child born in wedlock? Is it not merely social prejudice and the possibility of dishonor and spoiled reputation, that is going to keep us to-day from asking the same thing for the child born out of wedlock that we ask for the child born in wedlock? Those of us who are placing children know that in the last generation—the last 25 or 30 years—there has been a decided change in the attitude of society toward the child born out of wedlock. Such a child used to be considered a bastard and somehow accursed—a child who would not have much chance and who was to be thought of with pity but with little hope. But now, as those of you who are placing children know, very wonderful families are adopting illegitimate children. Child-placing agencies are always being pressed to take children away from the parents for the sake of the splendid homes that can be secured for illegitimate children. We have always to be on our guard not to take a child away from its mother, because all the time we know we could find a wonderful home for that child.

I think there is going to come a change in the public attitude toward the possibilities for the child, and toward the mother, and toward motherhood as such, and I believe it is going to be possible to frame a finer law, and a law more fair to the so-called illegitimate children, than the laws of to-day.

Miss BATES. I don't know whether I am optimistic enough to expect the ideal. I think the stand of the Chicago group is more or less a concession to public opinion and to the necessities of the case. We are trying to get something just as ideal as possible, but practical and workable, too. It is more or less of a concession, but I, myself, believe it is rather a necessary one.

Mrs. BROYLES. The Cincinnati report is practically the same as Milwaukee's on the question of the responsibility of the father for the child.

Miss MARSHALL. The Cleveland group recommended:

> The father of a child born out of wedlock should have the same responsibility for the child's support and education as though the child were born in wedlock, provided this were for the best interests of the child.

I think the Cleveland conference felt the responsibility should be the same as though the child were born in wedlock.

Mr. HULL. There is one matter I would like to bring out in this connection. As we are approximating an equal responsibility on the part of the father whether the child be legitimate or illegitimate, and as the status of each becomes equal, it occurs to me we may have to consider extending to the father certain rights as well as obligations. If a man must provide for the education of his child, then the question comes up as to his right to supervise, direct, and follow up that education. If ultimately that ideal, which many of us here seem to entertain, is arrived at, it seems to me that with complete obligation shall come certain rights. I know of one case at least, in my own experience, where a man who had been dissipated in his youth, and who had become a substantial citizen in his older years, was very much distressed and troubled because he wanted to provide in the best possible way for his illegitimate children; their mother, who nourished a great hatred for him, simply to spite him deprived him of the opportunity of offering higher education and opportunity for advancement in the business world. He had no come back and was powerless to do any thing about it. I do not see anything in this outline for discussion that would provide for the father's right of control, or for division of control with the mother, when there is an increased obligation upon him to give continuing and full support.

Mr. HUNTER. It is undoubtedly true that those points would have to be taken into consideration in the court order. You can not separate the question as to whether or not it would be possible for the order to make, under the law, the father as fully responsible for his illegitimate child as for his legitimate child. Would you feel that was advisable, to have the law so framed that it was possible to make the father just as responsible for his illegitimate children?

Mr. HULL. If you mean in all respects, including property rights, I would say that was an impossibility. The illegitimate child's rights would be inferior to those of the legitimate child, or they would be superior; but that is taken up later in our program. I agree in general with Miss Bates.

Mr. HUNTER. I believe the next point which Miss Drury brought out was the continuing jurisdiction of the court in regard to both custody and support; that jurisdiction should continue during the dependency of the child. Just what is meant by that?

Miss DRURY. In some States it is until the child is 14 years of age, and in some 16.

Mrs. BROYLES. The Cincinnati report on that question is:

> The court should have continuing jurisdiction during the minority of the child, both in regard to custody and support, with power to revise its orders as changing conditions may necessitate.

Instead of having a court order entered and the case closed, as is now done in most States, with the issuing of the order for support,

the court should have continuing jurisdiction so that the case may be opened at any time and the orders of the court changed with the changing financial condition of the father.

Mr. HULL. Ought we not to make an exception where the mother marries a man not the father of the child, and her husband supports the child? Should not all court jurisdiction cease at that point?

Miss MARSHALL. The Cleveland report is the same as the others, but it adds:

> In the event of the marriage of the mother and the adoption of the child by the father, the court jurisdiction should cease.

I think it should read "adoption of the child," not only "by the father."

Miss HUTZEL. The Detroit report is substantially the same as that of Cincinnati. But I do not understand why supervision should cease if the mother marries. I should think it should continue if she marries a man other than the father of the child.

Mr. HULL. I added "and if her husband supports the child."

Miss HUTZEL. Then would the payments stop?

Mr. HULL. Yes; absolutely; they would, under the law. The adoption would cancel the old obligation.

Miss BATES. Are you giving the natural father any rights under that?

Miss HUTZEL. He hasn't any at the present time.

Miss BATES. There are some cases where the father can take custody of the child much more advantageously.

Miss HUTZEL. Is that fair to the mother unless you prove her unfit?

Miss BATES. It is fair to the child, and that is the paramount consideration. I think the child should go to the parent who is fitted to give it the best possible care. It rarely happens, of course, that the court would take a child away from the mother; but there are such cases, and I think the father should be given some rights.

Mr. HUNTER. Mr. Hull makes an exception of cases where the mother marries a man not the father of the child and the child is adopted by the mother's husband. It seems to me that is an exception, because such things can be dealt with when adoption proceedings are brought. Evidence might be brought in to prevent adoption, but if the adoption is consummated and the child is in a normal family, then I think the natural father ought to be entirely out of it.

Miss DRURY. We make the statement that the unmarried mother should be the legal guardian of the child unless guardianship was changed by court order.

Mr. HODSON. It seems to me the presumption, if you have a right to proceed on presumptions in these cases, is always in favor of the mother. That is natural and normal, and, of course, the courts and public opinion generally, I suppose, would insist upon that. Now,

if the mother is not a fit person to have the child, of course juvenile court procedure can always be resorted to and the juvenile court might take the child from the mother and might find that the father was the suitable guardian. It seems to me difficult to go beyond that. I do not see how you could claim a general principle that would cover those cases; the matter should be left to the normal juvenile-court procedure.

Miss BATES. That is just what I want to do, but I should not like to see the law specify that the mother is the guardian of the child. I think the question of custody should be left to the discretion of the court, and should not be determined in the law itself in favor of either one or the other parent. I think the presumption would always be in favor of the mother, as it has been in the case of legitimate children. If the mother is a fit person she gets the children always, I think, in all of our courts nowadays.

Judge FRY. Often you find the mother is no more interested in the child than the father; that is a very frequent occurrence in the courts. The mother wants to shift her responsibility by the adoption of the child or by letting any institution that so desires take care of the child. Of course, that sort of mother has not the mother heart, nor the mother interest in her child. She has no more interest primarily than has the father.

The proposition of bringing the man in and entering an order for 10 years is difficult; you are going away beyond what the mind of man can conceive may happen in the future. The problem of having him sign a bond for a period of 10 years—no man who regards himself or has any regard for his property interests wants to tie himself up for that length of time. Whereas, if the individual is to be brought into court each year, assuming that there has been a final adjudication of the parentage of the child, we can thereafter each year bring in the individual just as we do in the case of nonsupport.

Now, it seems to me if we had general jurisdiction, bringing the individual into court each year for support of the child as necessities may arise, and giving the court the latitude that it has now in the matter of nonsupport, we would more nearly reach a proper solution of this question than we do by the present method in Illinois of ordering $200 the first year and $100 each year thereafter and securing a bond.

The question of support by the father of an illegitimate child is never relished by the father, and yet my observation in the court of domestic relations is that nonsupport not alone applies to the father of an illegitimate child, but is very, very common as applied to the father of legitimate children. If we are going to shirk responsibility for the father of the illegitimate child, then we might as well do it for

the father of the legitimate child whose mother is dead and whose relatives are taking care of it.

MR. HUNTER. Shall we go on to the methods of probation and the other methods of enforcing payment? Miss Marshall, from Cleveland, what suggestion do you have on that point?

Miss MARSHALL.

Probation accompanied by an order for periodic payments is the best method for securing regular contributions from the father. He should be required to give a guaranty bond to insure such payments.

Regular payments are felt to be the best method rather than the acceptance of a lump sum, which usually is assumed by the family and does not have the effect on the father secured by periodic payments over a length of time.

The law should forbid private settlements out of court, in order to protect the mother from settlements which she does not understand and which may cut her off from any further settlement later.

MR. HUNTER. Do you recommend payments at stated intervals?

Miss MARSHALL. Continuing jurisdiction and payments at stated intervals during minority.

Miss HUTZEL. The Detroit group recommended:

The court should have continuing jurisdiction during the minority of the child, both in regard to custody and support, with power to revise its orders as changing conditions may necessitate.

Provision should be made for periodic payments subject to change on recommendation of court; payments to be made through court officer. It is not recommended that there be any other form of probation.

The father should be held for contempt of court if payments are not made as ordered. The present Michigan statute makes this a civil offense and prisoner is held at county jail as a civil prisoner. The statute should be changed so that the prisoner can be sent to the house of correction, the proceeds of his work to go to the support of dependents.

The court should not be permitted to accept lump-sum settlements, except in cases where adequate provision had been made for the care of the child until it reaches the age limit set by the law for the father's liability for support.

Any settlements made out of court should be held void.

May I suggest that we give a few minutes to discussing bond? In Michigan we have a great deal of trouble with the 14 and 16 year bond. Men are unable to furnish bond, consequently they go to jail. Or they furnish a $500 bond, and many of them disappear, forfeiting the bond; that bond goes to the State and the woman and child get nothing. I should like to know how some of the other States are handling that.

Mr. HULL. We have two types of bonds in Ohio. In the bastardy proceeding there is the type which runs to the State and which on forfeit does neither the mother nor the child any good. We have also what we call our security bond. That is one which guarantees that the money will be paid in accordance with the order of the court; and if it is not so paid, the bondsman must either take up the burden of installment payments or have his bond sued on and forfeited and

the money applied for the benefit of the child. That is the operation, not only where there has been a bastardy proceeding, but also in our criminal court when we have brought the father of the illegitimate child back from another State and when the man's sentence is suspended; the statute requires the giving of just that kind of security bond and in case of default of the father, the bondsman has the choice of having his bond forfeited all at once, or of paying installments until they equal the face of the bond, the bond then being canceled. He is not required to pay over and above the face of the bond. I do not believe it would make much difference whether the bond is for a year or longer, because this kind of security bond is almost invariably given by the man's immediate family. Nobody else would go on a man's bond of that sort as a general rule, except some surety company, and in that case the man's family or the man himself would have to put up a sufficient amount of cash to protect the company. As a rule, the man's family, if they own property at all, would go on his bond and guarantee his payments and, if necessary, make them for him, rather than see him go to prison—particularly in States, where, as in ours, there is a penitentiary sentence of from one to three years which can be applied. We do not, as a matter of practice, if there is any property at all available for the purpose of bond, have any difficulty with the question.

Miss HUTZEL. Do I understand the man can be sent to the penitentiary for from one to three years for nonpayment?

Mr. HULL. For the nonsupport of his illegitimate child, if we employ the criminal statute, as we can in our State. The illegitimate child and the legitimate child come under one criminal statute. In addition to that, we have the old-fashioned bastardy act.

Mr. HUNTER. As to the matter of a lump-sum payment, the Detroit group recommended:

The court shall not be permitted to accept lump-sum settlements except in such cases where adequate provision has been made for the care of the child until it reaches the age of father's liability for support.

Any settlement made out of court should be held void.

May we have the Cincinnati report on that point?

Mrs. BROYLES:

The court should not accept a lump-sum payment except in very special cases (i. e., where a large trust fund would be held for the child). Private settlements out of court should not be prohibited, but should not constitute a bar to subsequent criminal proceedings against the father for the support of the child in cases where the court may deem the amount of settlement inadequate or the terms of the settlement not carried out.

Miss DRURY. The Milwaukee group recommended:

The court shall have power to accept lump-sum payments in full for a support order, or to accept cash payments in lieu of an order for support to be paid out in regular installments for the support of the child.

The law shall forbid private settlements out of court.

Miss MARSHALL. The Cleveland group had nothing more on that.

Miss BATES. I think the recommendation of the Chicago group was that the court should permit settlement in court. It referred to adequate provision for the support of the child and said nothing about lump sums. I think we rather like the provision in the Massachusetts law, permitting the court to take other methods of providing for the child and accepting full settlement rather than the lump sum of money. For instance, if it can be shown that the child's support has been legaliy taken care of through some other means—that adequate provision has been made for the child, perhaps through the grandparents or through adoptions or something of that kind—then the court can accept settlement.

Mr. HULL. There is one phase of this question that we have not gone into, and upon which, in Cleveland, we have laid a great deal of stress; that is, the community point of view—the moral effect it has upon a man when he is required to keep on paying, weekly, bimonthly, or monthly. We think the thing that makes the most impression, especially in the case of the young father of an illegitimate child, is that constant request to come in with money. It acts, we believe, as a moral deterrent and reminder to him and in our judgment keeps him from further misconduct along the same line. Whereas, if a lump sum is required of him, that sum usually is not paid by the man himself. Most of the men in our cases are under 25 or 30 years of age and they are not possessed of very much money. If they have to make a lump-sum payment it is collected by the court; members of their families—the father or the mother—may put up the money to help out the man. We feel that by the installment plan, backed up by an adequate bond, we have a better moral deterrent than where the man can pay a lump sum of money and dismiss the whole thing from his mind.

Mr. HUNTER. Would you have the lump-sum settlement prohibited by law?

Mr. HULL. My understanding of the Massachusetts law was that when a lump sum was accepted by the court the court had to enter in the journal a statement that in the court's opinion the sum accepted was adequate for the future support of the child until it arrived at an age of self-support.

Mr. HUNTER. Would it not be practical to put into the law, "which shall not be less than a certain amount per year"?

Mr. HULL. When you fix a hard and fast rule which the court must observe, it is pretty difficult to take care of exceptional cases where it is almost impossible to extract an adequate amount from the father either because of his extreme youth or because of other obligations which he has to meet legally. The only thing I wanted at this time to bring out is the fact that we felt there was a moral value

to the community inherent in the installment plan of paying, because it keeps the man constantly reminded of what he did and the penalty attached, and he is less likely to forget the incident than if he is permitted to pay a lump sum.

Miss BINFORD. May I ask who follows all these payments to see that they are made regularly?

Mr. HULL. In practically all cases involving the legal angle the court end is handled by one private agency in Cleveland; the court pays the money to that agency as trustee, and we have an accounting department—cashier and bookkeeper, and a card ledger system for collecting payments.

Mr. HODSON. It seems to me the argument in regard to this matter of lump sum is not nearly so one sided as it may appear. Let us suppose a few cases. Suppose the father of the child enters into its support for five years and dies without insurance; or let us suppose that the father of the child is absolutely good for nothing, as is frequently the case, so that he is not able to get a bond; you can not put him in jail and keep him there. But suppose also he is able, through some means, to raise something to pay on behalf of the child. Sometimes good-for-nothing people can, through their friends who want to help them out, raise some money. There are a number of cases that are going to arise where the particular needs of the situation will dictate a lump-sum settlement. We have found that very frequently, and I think there are many such cases. I believe that in general the monthly payment may have the effect of bringing home the moral lesson and a sense of responsibility. On the other hand, in stating a minimum standard for general application, I should hesitate to go on record as opposing the lump-sum settlement, because I think it has certain practical advantages and is an outlet in some cases that is desirable. I might also add, there is still another type of case where, if a father can make a lump-sum payment, very frequently a better bargain can be driven in behalf of the child, if you are looking at it entirely from the standpoint of the financial benefit to the child.

Mr. HUNTER. You would be against shutting it out, providing it is properly safeguarded?

Mr. HULL. I also agree to that. We sometimes find ourselves in a position where we would have to accept a lump sum, but we do it reluctantly.

Mr. HUNTER. Miss Bates, can you report for Chicago on the question of inheritance rights and the right to the father's name?

Miss BATES. We did not recommend that the child be given the rights of inheritance, though we felt that the child has that moral right. Perhaps this is another case of concession, not only to public opinion, but to certain vested property rights. We felt that in

Illinois, at least, giving the illegitimate child rights of property would prove very unsettling to property titles in the State and would give rise to many very complicated and extremely difficult legal questions in the settling of estates. I do not know how far that objection would hold good in other States. I know we have a great deal of trouble here.

Miss BINFORD. Yesterday, two or three times, and last night, Prof. Freund made the point that it would not be wise to give the illegitimate child a right in the estate which the legitimate child did not have. He said a father could disinherit the legitimate child in this country. How likely would courts be to uphold a father in disinheriting his own child?

Mr. HULL. The father has an absolute right to disinherit any of his children, as long as he makes it plain in his will that he was aware of their existence and knew what he was doing. He can for even trivial reasons disinherit. Courts consider in construing a will, whether the man or woman making the will was aware of the fact that he was disposing of his property in a last will and testament; whether he had in mind the natural subjects of his bounty; whether he knew what they were possessed of; whether he knew what he wanted to do. If all these questions can be answered in the affirmative and if the fact that the party making the will had in mind the natural objects of his bounty by referring to them particularly by name and particularly disinheriting them, the father can disinherit any one of his legitimate children.

We speak about securing equal rights for the illegitimate with the legitimate child. It is impossible. The illegitimate child must be inferior, or else the legitimate child must be inferior to the illegitimate child. If you merely say the illegitimate child shall have equal right of inheritance, ninety-nine times out of a hundred the father would specifically disinherit the illegitimate child. Manifestly in that case the illegitimate child's status is inferior. The only way to get the illegitimate child out of that position would be by forbidding the father the right to disinherit his illegitimate child; and as soon as you do that you make the illegitimate child superior to the legitimate, because the father can disinherit his legitimate child. I doubt if any statute you could pass would be constitutional under the United States Constitution, because that provides not only for liberty of personal rights but for liberty of property rights also—the disposition of one's property is one of the fundamental rights guaranteed. Moreover, I do not think even the most humanitarian person ought to desire, or would desire, to make the status of the illegitimate child superior to that of the legitimate. If there must be, and I am sure

there must, some disparity when it comes to property rights, the benefit ought to go to the child born in wedlock.

Mr. HODSON. What objection can there be to the right of inheritance for the illegitimate child under the same conditions and with the same impositions and limitations that apply to the legitimate child? In other words, if a father may disinherit by express provision his legitimate children, then certainly the illegitimate child should not be in a better position. But why should not the illegitimate child, subject to all those limitations, have the same right of inheritance?

Mrs. BROYLES. The Cincinnati report stated that the illegitimate child should have the same rights as the legitimate child—not superior, but equal—if the father acknowledged his child in writing or his paternity had been adjudicated by court.

Miss BATES. It seems to me the one thing we would overlook, if we gave the illegitimate child rights of inheritance, would be the unsettling of titles, because such children very often do not live in the home or in the family. This adjudication of paternity may have been taken in a foreign State and the children may not be known at all by the heirs and executors or administrators of the estate, and they may bob up years and years afterwards; whereas the legitimate family lives in the community and is naturally better known. I think those things are worth consideration. I suppose nobody would say the illegitimate child ought to have rights of inheritance unless there has been adjudication of paternity.

Mr. HODSON. There are a number of States where there is a right of inheritance without adjudication on written acknowledgment.

Mr. HULL. If it is made possible by a change of the law for a man's illegitimate children to come forward at any time after his death, or within a time fixed by the statute, and insist upon a division of his estate, it seems to me it would shake and unsettle the security of the marriage state.

Miss BATES. How about the other home from which these illegitimate children come? Don't you have respect for them too?

Mr. HULL. I think as between the two, there should be an unmistakable preference shown for the marriage status. And I think, entirely aside from the legal question, if you put the illegitimate child on a basis of equality with the children born of the man's wedded wife, there is a great social danger.

Mr. HODSON. They are all children, are they not?

Mr. HULL. Yes; but there is something more. The question is, is the child or the home the unit of the State? If you are going to make, as far as the economic basis is concerned, the status of the unmarried mother and her child equal to that of the married mother and her child, you are going to do something greatly to unsettle society.

Miss LATHROP. I can see Mr. Hull's point up to a certain limit, but I wonder if we can ever set Humpty-Dumpty up again in that way. When we have broken down this sanction, when we have for any reason of expediency or desire flouted orderly marriage by which one man and one woman come together for their lives, we have imposed upon the woman, at least, a terrible penalty which nobody can lessen or entirely eliminate—not because of social contempt exactly, but because she lacks all those things which make an ordinary home a safe and decent place in which to live and bring up her children. And I do not think we need fear that we have to safeguard the family by making her condition and that of her child hard. We have grown increasingly to respect family life and decency, notwithstanding all the divorces we have in this country. I myself look at family life and the responsibility to the child, which is perhaps its best test, and feel that there is a steadily upward movement as to the sanctity and responsibility of the parents of children. I do not believe we need to enforce by law an economic discrimination in order to purify and strengthen the family.

MILWAUKEE'S COOPERATIVE PLAN OF KEEPING MOTHERS AND NURSING BABIES TOGETHER DURING THE NURSING PERIOD.

LOUISE DRURY, *Executive Secretary of the Juvenile Protective Association of Milwaukee.*

A bill was introduced into the Wisconsin Legislature in 1917 making it illegal to separate mothers and babies under 6 months of age without an application to and consent from the juvenile court judge. The bill failed to pass, but the interest evoked in the subject and the publicity given to the conditions which prompted the introduction of the bill were of great assistance in making possible the present method of securing the same result through cooperation without legislative backing.

In Wisconsin, maternity homes and hospitals and child boarding homes are by law placed under the supervision of, and are regulated by, the department of health and are required to report within 24 hours, to the local board of health, the receipt and removal of all children. Eight months ago the commissioner of health deputized the Juvenile Protective Association to socialize the child boarding system of Milwaukee and to issue health permits for the boarding of all children in the boarding homes. At the request of the association, the commissioner of health sent letters to all maternity hospitals and lying-in homes, asking them to cooperate in an effort to save the lives and health of infants by having all babies breast fed when possible, while they were in their institutions. At the same time, a letter was sent to all boarding mothers and children's institutions requesting them not to take any children to board unless they had permits issued by the Juvenile Protective Association. A letter was sent also to all institutions and social agencies in the city, requesting

them to refer to the Juvenile Protective Association all applicants for boarding children and all cases of mothers and nursing babies needing special provision made for them. The local newspapers complied with the request of the association not to accept advertisements either to take or to place children to board but to refer all persons desiring to advertise to the Juvenile Protective Association; this request was made on the ground that only such boarding homes as were licensed and under the supervision of the health department would be legally able to operate.

The request for cooperation in carrying out this program for caring for children who are to be separated from their mothers and placed to board was made on the plea that saving the lives and health of babies was a public-health problem and entitled to prime consideration. The result of placing emphasis on this public-health phase of illegitimacy has had very gratifying and far-reaching results. Child-placing organizations, which formerly took the release of many babies a few days old and brought them into Milwaukee to be boarded until they were placed for adoption, are now forced to find ways of having the mother stay with her baby, either in the city or elsewhere, and nurse it until it is 3 months old. Commercial lying-in hospitals and maternity homes which formerly permitted mothers to leave when their babies were 10 days or 2 weeks old, without making any effort to breast feed them, must now apply for a permit to keep the baby without the mother; thereby, the opportunity is given to insist upon breast feeding and to make the provision necessary for the mother in order that she may do it for 3 months. The many babies a few days old, formerly sent into the city by doctors and priests to be given away for adoption, can not be received in any institution or boarding home without a permit; thus an opportunity is given either to send the baby back to the mother to be nursed for 3 months or to find a suitable place for the mother to stay during the nursing period. The heads of the boarding homes are enthusiastic about the permit plan, because it safeguards them against receiving children for whom the board will not be paid or from having children abandoned in their homes, as was frequently the case in the past. The institutions and child-placing organizations are cooperating, if not enthusiastically, at least willingly, because they are being closely watched and because it would be hard to answer successfully to the public as to why they were not willing to make this effort to save the lives and health of babies when Federal statistics show that two and one-half times as many deaths occur among the artificially-fed babies as among the breast-fed babies.

Where formerly 85 per cent of the babies separated from their mothers in Milwaukee were known to have been separated before

they were 3 months old, and 70 per cent before they were 1 month old, a very small per cent to-day are known to be separated under 3 months, other than those whose mothers die or are physically or mentally incapable of caring for them. Mothers are voluntarily coming back at the end of 3 or 4 months, saying that they have nursed their babies for the required 3 months, and are told where to apply for a permit to board their babies at the end of that time. Up to the present time, there has been no serious difficulty in making provision to keep mothers and babies together for 3 months. A larger number of families are taking the daughters and their babies back into their homes for at least the 3 months' nursing period. Several maternity homes providing postnatal care have been persuaded to take mothers and nursing babies for the nursing period. The heads of several boarding houses for infants will take girls with nursing babies and either allow the mothers to work for their board or pay them small wages over and above the board. Intensive case work is done on each one of these cases, and an effort is made to establish the paternity of the child, wherever possible, and to secure support for the baby. Experience has shown that a better plan for the future of the baby can be made when the baby has been given a good start physically, when there has been an opportunity to make a thorough investigation of the case, and when the mother, having recovered from the physical and mental strain, is herself more capable of deciding what she wishes to do for her baby and for her own rehabilitation in society.

Because of the great variety of cases and the many delicate problems involved, no plan of care for children born out of wedlock will ever approach a 100 per cent perfect mark. It is a matter of education; and though a 3 months' nursing period is not adequate, it seems that a conservative requirement which did not create strong opposition, but which could be slowly and tactfully enforced through education, would in the end bring the best results. By this method doctors, nurses, maternity hospitals, child-placing organizations, institutions, and the general public will eventually realize that secrecy and relieving the mothers of responsibility is of less importance in this matter than saving and protecting child life.

STATE SUPERVISION.

PUBLIC SUPERVISION AND GUARDIANSHIP.

WILFRED S. REYNOLDS, *Superintendent of the Illinois Children's Home and Aid Society.*

In the process of securing for children born out of wedlock the rights and safeguards naturally assured to children born of wedded parents, our topic introduces us at a juncture preceding which certain important steps have been taken. Supervision and guardianship, which function after the establishment of paternity, or after the question of establishing paternity has been decided, may be designated as important features of the *treatment*, based upon a knowledge of the elements and conditions bearing upon the case. Furthermore, a wise decision as to guardianship or a proper application of supervision in a given case rests heavily, for guidance, upon an accurate finding and social evaluation of the elements which have preceded in the process.

Guardianship.—By guardianship is meant the absolute legal parental control of, and the responsibilities to and for, the child. What forms of guardianship are now possible in our various states?

First. The mother may be the sole guardian. Without legal or other action outside the mother and her own family, the child remains in the sole guardianship of the mother; this, if preferred by the mother and approved by her family to the extent of helpful cooperation in the care of the child, has been quite generally accepted as natural and rightful guardianship. Guardianships by the mother fall into two groups: (1) those in which mothers retain guardianship with the helpful cooperation of their families, either by the family receiving the mother and child into its full participation or assisting the mother to support her child outside the family circle; and (2) those in which mothers, without the knowledge of their families, or at least without their cooperation, bravely assume the obligations of both mother and father in the care and support of the child.

Second. The mother may marry the father of her child—which procedure in most States constitutes legitimation—thereby establishing parental guardianship.

Third. The mother may marry a man not the father of her child, who may legally adopt the child, thereby establishing parental guardianship.

Fourth. In case the mother dies after the birth of her child and before marriage to the father, the father may secure legitimation through legal processes or through legal adoption.

Fifth. The mother may select a family in whose guardianship she may desire to place her child, and may permanently transfer the guardianship directly to that family through the process of legal adoption, as may be provided in the given State.

Sixth. In most States, provision is made whereby the mother may consent to the appointment by a court of a guardian for her child in the form of an institution or agency, empowering the proper official of such organization to cause the child to be cared for, and to consent to the legal adoption of the child.

Seventh. In many States it is a common practice for an illegitimate mother to sign what is usually termed a "release" to her child in favor of any—it may be qualified or unqualified—institution, agency, or individual, empowering action in her stead in all matters pertaining to the child, including the consent to its legal adoption. Many times such a release is executed a few hours after the birth of the child, and is accepted by the adopting court as sufficient basis of consent to legal adoption on the part of the guardians named in the release.

Eighth. If a mother is unfit or unable to care for her child, within the meaning of the statute as provided in many States, the court may, even against the will of the mother, appoint a guardian for the child and remove the child from the mother to the care of the guardian.

It is not possible to discuss at length these eight possibilities as to guardianship, but certain points may be noted. It seems to many that the possibilitity of the mother's "sole guardianship" should be assured; that is to say, it would be unfortunate if compulsory determination of paternity or compulsory guardianship by the State should interfere with the natural assimulation of a child born out of wedlock into the mother's family, or embarrass a capable mother in her desire to assume entire responsibility for her child.

On the other hand, there should be some provision, if not to prevent, yet to safeguard the indiscriminate assignment of guardianship by illegitimate mothers who may be mentally incapable, discouraged, or helpless. It should be made illegal for the guardianship of any human life to be assigned or accepted without the approval of a court of competent jurisdiction. If quick disposals of guardianships are thus prevented, and the admissions of all illegitimately pregnant girls and women are compulsorily reported by all institutions, hospitals, and agencies receiving unmarried pregnant women to some State authority empowered and equipped to dispatch a sympathetic, wise, socially trained woman to make the proper contacts with the bewildered, frightened, and confused expectant m ther, a safe plan in most cases will be formulated—whether it be public guardianship for the child or its care without such guardianship.

It appears reasonable to suggest that public guardianship in the case of every child born out of wedlock is hardly necessary. Children whose financial support and proper personal care and future training are assured by the maternal or paternal resources and fitness do not need public guardianship, and probably results are more satisfactory and more justly obtained without it.

There are children for whom guardianship other than that of the mother is necessary. These cases may be determined according to the provisions of the statute providing for the assignment of guardianship of children born of parents married to each other. Determination of dependency or neglect will apply to parental inability or unfitness, and if the statutes in a given State are not inclusive with relation to these cases, they probably can and should be made so.

Supervision.—Public guardianship and public supervision are, and in light of our systems of child care must be, closely related. In our outline the question is put: Should the State assume supervision and protection of children born out of wedlock? Compared with the State's duty toward children legitimately born, there appears an additional responsibility resting upon the State in its duty toward illegitimate children, namely, the establishing of paternity and providing for the discharge of its attending benefits and obligations. For this the child born out of wedlock must depend upon the State, while other children are assured their status in paternity by the nature of their birth. The State need not provide additional or unusual facilities for supervision and protection of this special group of children, except that required to assure legal paternity. The State's program for supervision of *all* children, or service for children needing care and attention other than or in addition to that of the parents, should apply adequately to children born out of wedlock.

The method or system of public supervision in a particular State will depend upon the developments for care and protection of children prior to the establishment of a comprehensive State scheme. States of older history have been inclined to permit local guardianship in private or semipublic agencies, rather than direct assignment of guardianship to a State authority, or even to a local wholly public authority. States establishing comprehensive State programs, in the absence of very extensive child-caring provisions previously developed, are inclined more readily to provide for direct assignment of guardianship to the State or to a local public authority.

Which of these tendencies should be followed seems unimportant, provided that adequate and competent facilities for gathering, analyzing, and evaluating the elements bearing upon cases of illegitimate parents and their children are assured; that the authority for determination and assignment of guardianship in all cases is official and competent; and that the State insures through supervision acceptable qualifications, standards, and proper performance of all forms of guardianship.

Surely it is incumbent upon the State to require certain minimum standards, which in substance may be set forth as follows:

1. Assignment of guardianships shall be only upon the order of competent official authority, whether that authority be by

court or by a legally established board or commission endowed with necessary powers.

2. Legal adoptions of *all* children upon direct consent of parents shall be consummated only after searching social inquiry as to the advisability of the adoption in relation to the consenting parent and adopting family. An investigation by the proper State or local public child-welfare authority as a requirement in these direct adoptions of children, especially of illegitimate parents, should be seriously considered.

3. Satisfactory qualification of guardianships shall be assured, whether the guardianship be vested in a State department, local public authority, private institution, agency, or individual. It should be illegal for a guardianship to be assigned to *any* guardian not certified by, preferably, a State authority. Such certification should carry with it frequent supervision of the guardian.

4. Assignment of custody of children temporarily, or more permanently, to any custodian not related to the child by blood or marriage, should *be prevented*, unless such custodian is certified by State or local, county or municipal authority. This will go far to prevent the shameful treatment of children, especially illegitimate children, by incompetent so-called baby farms or private boarding places.

5. A State department of child welfare with local supplementary boards, committees, or commissions to meet such local conditions as may exist in any given State, empowered to accept and perform the duties of guardianship directly assigned; fitting into and coordinating with a State-wide scheme the satisfactory facilities that have been developed; empowered with the authority to secure the essential rights and safeguards to children.

This undoubtedly is the essence of a program to insure the performance of a State's responsibilities to its children, whether born of legitimate or of illegitimate parents.

If a State department is empowered and equipped in personnel to assume and perform the duties as implied in the foregoing essential responsibilities, it will be able to assist in the local determination of paternity; in the wisest assignment of guardianship; in the helpful planning for the mother's future; and in the discharge to the fullest degree of paternal obligations. Furthermore, it will go far to prevent ready, indiscriminate, and unqualified release of the child by the mother; it will make possible the assuming by the State guardianship of such cases as may demand such guardianship; it will insure safe and satisfactory performance of guardianship on the part of all other guardians legally appointed; and it should do much to direct public opinion into a more helpful attitude toward the problem presented by illegitimate parents and their children.

JAMES F. KENNEDY, *Secretary of the Metropolitan Central Council, Society of St. Vincent de Paul, Chicago.*

Father Kiley told me that he had fully expected to prepare a paper in connection with the subject under discussion this afternoon, but was prevented because so much of his time was absorbed in giving attention to matters resulting from sickness in certain institutions over which he has charge. He told me to-day that he is deeply interested in this problem, and that the dignity and rights of family life should always be kept in mind. If the same standing were given to the children born out of wedlock and the children born in wedlock, the family would be destroyed, and with the family, the Nation. Women would be degraded, and man would feel no responsibility for woman's condition.

However, we must safeguard the welfare of the illegitimate child. He is a member of the community into which he is born. As such, he is entitled to humane treatment and humane care, and should be accorded the opportunity of acquiring a religious and a secular education equal to that of any other child. In regard to public guardianship and supervision—the topic under discussion—our laws should be discriminating in order to enable the good mother, the mother who is capable, to have the same freedom in the care, custody, and direction of her child as that of a married mother. No unnecessary hardship should be imposed upon her because she has an illegitimate child. When the mother is deficient, subnormal, or incapable of giving proper custodial care to her child, the State should exercise its function of safeguarding the child's welfare, just as it does in the case of any other dependent or neglected child.

In regard to the administration of funds for support obtained by court proceedings from the father of an illegitimate child, it would seem proper for the judge hearing such cases to be vested with authority to decide whether it is for the best interests of the child to designate some suitable person other than the mother to have charge of the disbursement of such funds. Considerable discretion should be allowed the judge in dealing with these cases in order that when he finds the mother to be capable of managing the funds, supervision would not be required. In this connection, it must be borne in mind that all citizens are under more or less supervision; hence, there can be little complaint in making recommendations for the welfare of the illegitimate child. However, in making these regulations considerable discretion should be vested in the judge in order that he may be free to dispose of each individual case in a manner deemed best for the welfare of both mother and child. Otherwise, there is danger of imposing hardship and humiliation upon the very group of persons whose rights we are planning to safeguard.

Another important point which is deserving of the most serious consideration is the fact that we should not accord greater property

rights or greater community rights to the child born out of wedlock than one born in lawful marriage. Since marriage is the foundation stone of our civilization, nothing should be done that would tend to degrade or belittle it. Illegitimacy should not be regarded in any manner that would tend to lessen the dignity of the married state.

In regard to taking away a child from the custodial care of the mother and placing him under legal guardianship, the same discretion should be given the judge as that recommended for the disbursement of the funds recovered from the father. When the mother is capable of taking care of her child, the control and custody should be left with her. It is to be noted that 36 of our States have enacted some form of mothers' pension law; in 10 of these no express discrimination is made between the mother of a legitimate child and of an illegitimate child, while in the State of Michigan the statute makes specific mention of awarding pensions to the mothers of illegitimate children.

We should strongly uphold the sanctity of the married state and recommend that in making provision for the care of illegitimate children the law should be so framed that the fathers would be compelled to make adequate provision for the children; that the judge should be given discretion as to whether or not a suitable person should be appointed for the supervision of the disbursement of funds recovered from the father; that the mother, when found to be capable, should be allowed the custody and control of her child; and that care should be taken that the child born out of wedlock should not be lifted to a more favorable position in the way of property rights than that of children born in lawful marriage.

JOHN A. BROWN, *Supervisor of Field Service, Indiana Board of State Charities.*

The State owes a duty to every child, and its obligation to the unfortunate child is increased in proportion to the degree that its natural rights have been neglected. To such a child, it must insure justice by assuming in a greater or less degree the duties and obligations of parenthood.

The problem of the mother with an illegitimate child has always been a delicate and difficult one. The natural impulse of such mothers is to hide their shame from the world. They are hoping and planning to assume their former place in society. Too frequently they give little thought to what becomes of the child. This fact has been recognized by a class of persons who are not concerned about the welfare of either the mother or the child; they are interested solely in the financial gain that the care of such unfortunates will bring them. Ten years ago conditions in Indiana in respect to this matter were deplorable but no different, I venture to say, from those in many other States at that time. The maternity homes were simply lying-in places. Here, unfortunate girls and their

babies were exposed to the infection of unclean surroundings, untrained nurses, unlicensed midwives, and careless, indifferent physicians. The equipment of many of these homes was inadequate, and sanitary conditions were deplorable. The prices charged were often exorbitant, and the unfortunate mother was frequently hounded by the unscrupulous persons conducting this business with threats of exposure if more money were not forthcoming. The still more unfortunate child was neglected, bartered, or sold. No questions were asked of the person taking the child, and no one gave any thought to its future.

A knowledge of these conditions brought about enactment of a licensing law, placing maternity homes and child-caring institutions—both public and private—under the supervision of the board of State charities. The main features of the law are as follows: (1) It defines the agencies affected by the law: Maternity hospital, boarding house for infants, boarding home for children, and placing agency. (2) It provides for the annual licensing of these agencies and their supervision by the board of State charities. (3) It prescribes the kind of records such agencies shall keep and the medical attention required in maternity cases. (4) It prescribes the kind of reports that shall be made to the board of State charities. (5) It provides a method of compensation for the care of mothers who are dependent. (6) It provides for the deportation of nonresidents to the place of residence. (7) It provides that the board of State charities shall pass upon the need of new institutions as boarding homes for children. It is therefore illegal for any person or organization to conduct a maternity home or hospital without an annual written license from the board of State charities, and, further, the law requires that an investigation be made concerning the manner in which the business to be licensed is conducted. The board of State charities is given the power to limit the number of patients and to revoke a license at any time, if in its judgment the institution is being maintained without due regard to the health, comfort, and morality of the inmates. It requires that each patient give, at the time of her admission, her own name, the place of her last residence, and the name of the father of the child to be born. The admission of a pregnant woman, the birth of the child, and the discharge of the mother and child must be reported to the board of State charities within 24 hours. Should the child become a public charge, the county in which the mother had a legal settlement at the time of her admission to the institution must assume charge of the child and pay all expenses connected with its return to the county. The necessary expenses for the confinement of the mother of an illegitimate child and for the care of the child, unless paid within four months after such confinement, shall be a charge upon and collectible from the county in which the mother has legal settle-

ment. Should the mother come from another State and become a public charge, she and her child can be returned to her home State at the expense of Indiana. Rules and regulations formulated by the board of State charities make such requirements as will stimulate and encourage the best social methods of dealing with this important problem.

This law has been the means of lessening the number of so-called maternity homes and baby farms, has improved the condition of those now in existence and has protected the woman, the child, the community, and the State. It has broken up that practice of prospective mothers of coming to Indiana from other States to become inmates of our institutions, only to desert their offspring and to cause them to become public charges. The disreputable lying-in place, which all too frequently was used as a blackmailing establishment, has become a thing of the past. There has been a notable lessening of the death rate of babies, and a far smaller percentage of infants now become public charges.

The problem of the care of the illegitimate child by its mother is ever present. There are few persons who do not agree that the unmarried mother should be encouraged to keep and care for her child, if the mother is a suitable person to perform this service. The welfare of the child should be the determining factor. Most organizations caring for maternity cases do encourage mothers to care for their babies. Many require a mother upon admission to sign a statement agreeing to keep her baby and to remain in the institution for a given period of time, during which she is taught to care for the child and also to learn the lessons of housework. When she leaves, assistance is given in securing employment where she can keep and care for her child.

Another problem is the care of the child whose mother does not wish to keep it or who is for any reason incapable of its care. This child must be cared for by others. We are agreed, I am sure, that the best place for such a child is a family home. Selecting such a home requires the services of a placing agency. In Indiana placing agencies are licensed by the board of State charities and must report placements to it, giving the name and address of the family receiving the baby. No organization is permitted to place an illegitimate child outside the county in which the institution is located unless it employs an agent to investigate the homes where such children are placed and to supervise them afterwards. The State hospital receives charity maternity cases. It has a social-service department, and all hospital cases are followed up. Wherever there is a public-health nurse in the community to which a maternity case goes she is informed and asked to follow it up. Where there is no nurse a social-service department field worker looks after such cases. In this manner some illegitimate children receive supervision.

The case of a deserted illegitimate child is taken up with the judge of the juvenile court in the county where the mother has a legal settlement, and disposition is made in a manner provided by law. The child is then treated as are other public wards.

There is in our State nothing to prevent a mother placing her own child in a foster home. Such placements are often not well made. Legal adoption of such a child can be had with the consent of the mother. Some public agency should have supervision of such placements and adoptions and also of placements made by all organizations placing illegitimate children. To secure reports of placements made by the mothers themselves would be difficult. Many of them might be obtained, however, if, as in Minnesota, the law prevented anyone except the parents or relatives assuming the permanent control or care of a child unless authorized to do so by an order or decree of court. Minnesota also has a statute which provides that all courts shall report the filing of petitions for adoptions of minor children to a central agency for investigation before adoption is completed.

While it is highly desirable that mothers shall retain their babies, the welfare of the child should be the first consideration. Provision should be made for mothers to release their children, if they can not keep them, to some recognized agency for placement—as in Massachusetts, where the State board of charity may receive such cases if such action is for the public interest. This method of dealing with the problem would insure proper care and supervision of many children.

State supervision of illegitimate children is desirable and essential in order to insure proper care and protection, but such supervision should not entirely eliminate the responsibility of the local communities. Many illegitimate mothers come from rural communities to cities where there are facilities for maternity care, but a part of the problem is left in the community from which they come. The question of the support of the mother and child, that of bringing proceedings against the father, the after care of the mother with the child, the care of children surrendered or deserted, and the general social problems involved in such cases are matters of local interest and responsibility. The established county welfare agencies should share this responsibility. They can be of great assistance in solving some of these individual and general problems, and no State organization can be highly successful in dealing with a State-wide social problem without the cooperation of these local social agencies.

PERSONNEL OF THE RESOLUTIONS COMMITTEE.

WILLIAM W. HODSON, *St. Paul, Minn., Chairman.*

Jeannette Bates, Chicago, Ill.	Bradley Hull, Cleveland, Ohio.
Louise Drury, Milwaukee, Wis.	Eleanore Hutzel, Detroit, Mich.

NEW YORK CONFERENCE.

THE PRESENT LAW AND THE PRACTICAL IDEAL.

THE PRESENT LAW CONCERNING CHILDREN BORN OUT OF WEDLOCK, AND POSSIBLE CHANGES IN LEGISLATION

ERNST FREUND, *Professor of Jurisprudence and Public Law, University of Chicago Law School.*

[This paper, given by Prof. Freund at the Chicago Conference, February 9, was read at the New York Conference. It may be found on page 26.]

WHAT IS THE PRACTICAL IDEAL OF PROTECTION AND CARE FOR CHILDREN BORN OUT OF WEDLOCK?

C. C. CARSTENS, *General Secretary of the Massachusetts Society for the Prevention of Cruelty to Children.*

When the history of civilization's care of the child born out of wedlock comes to be written, the generations to whom it becomes available can not but be appalled at the carelessness with which this problem has been viewed since history began. The unfavorable circumstances which surround the birth of a child born out of wedlock are enough to stagger child-welfare workers, if they look the facts in the face.

In one of our ordinary American communities a young woman expecting to give birth to a child out of wedlock inevitably undergoes such mental distress and anguish and, under ordinary circumstances, so many physical deprivations that she is not in a condition which makes it possible for her to go through this bitterest hour of her life in any normal way. As a rule, the circumstances connected with the coming of the child lead her to feel that she must leave home and friends and be taken care of among strangers; and it is no wonder that to many the question inevitably comes as to how they may be relieved of the care of the child by placing it in such circumstances as promise reasonable care and kindness. In rare instances, indeed, the very sacrifice of the child's life is not considered too great in order to avoid thereby the necessity of facing the terrible situation alone. Happy the young mother who has a staunch friend to stand by her in this extremity, or who is able to be with her own mother and preferably in her own home. But if she is not able to stay at home or to go back there, and yet clings to her child, she is apt to go from pillar to post—with uncertain chances of making a decent living and of providing properly for her offspring. It is, therefore, no wonder that she is often—and perhaps usually—driven to give the child for adoption or to turn it over to the care of public authorities. A child who has by such means become a public ward is apt to have fewer opportunities of education and training than he may receive in a private

family home, and, in view of all these circumstances, is more frequently found among the dependents and the lawbreakers, the membership of bread lines, and the flotsam and jetsam of our various cities. If the child has remained with the mother, all too frequently his lot is not materially better, for he seems to suffer all the more from the social stigma which society has with remarkable success been able to lay upon him.

But conferences like this bear testimony to the fact that we have become convinced that the child born out of wedlock has not had a square deal, and that there is a well-defined tendency in America to alleviate his lot. In response to this sentiment, our laws and our social customs are both being modified.

There are those among us who would wipe out all the distinctions and who, by means of legislation, would make the child born out of wedlock the equal of his more fortunate brother. To such a procedure there are, however, serious obstacles. As in other lines of social legislation, it is well to remember that social custom is stronger than law, and the impossibility of doing away by means of legislation with the inequalities from which the child born out of wedlock suffers becomes apparent to us all. If we give the child his father's name, which seems to some of us only fair and right, we shall by that means alone often cause the circumstances of his birth to become known when otherwise they would have remained hidden from his fellows. The right to become a member of his father's family is another procedure that has been urged, but the transfer of the child born out of wedlock from the care of his mother—who must usually care for him during the earlier months or years of his life—to the family of the father—who may have a lawful wife and children—is sowing discord which threatens the existence of the family itself. Even the right of inheritance without legitimation brings problems in its trail that make such a right rather an empty gift.

The duty of society is certainly twofold: Not only to give its various members care and protection, but also to safeguard the institutions of society itself and to encourage their harmonious development. If we wish to render service in both directions, is it possible for us with good conscience to say to the girl who has been persuaded into illicit sex relations that it makes no difference; that her God-given impulses are her best guides; that the natural consequences of her action are but normal results; and that we will give to her and her offspring all the rights of a family without the sanction of marriage? This is following a line of false sentiment and flying in the face of the development of the race. Through long centuries, the human race has finally attained a recognition that fatherhood is an essential factor in the life and intellectual and moral development of the child, and by fatherhood we understand a monogamic and not a polyandrous fatherhood. Shall we

now turn back? Nay, rather, let us at this stage give what protection and care society should provide and the mother and child have a right to expect.

This subject of protection must deal with various aspects. It must consider the protection of life and health, the education of the child, his training for the world's work, his being fitted into a niche in the community's stream of life; and it must consider as well the protection of the mother from the great temptations and dangers that beset her path. But while plans are made for protection in these various directions, one can not lose sight of the protection of society against the possibility of the mother or the child becoming permanent social debtors.

Society's concern, so far, has been largely to protect itself against the financial burden coming with illegitimacy. Its failure in this particular, as well as in the protection of the human beings concerned, has been colossal. The way does not lie in those old directions, and once we are convinced that the need is great we must not hesitate to provide a new approach. This approach comes through a public interest and concern in every case; and it is best expressed through a public guardianship, vested in a board which for want of a better name we will call a State board of children's guardians.

All hospitals and homes caring for women and girls in confinement should be under rigid inspection and should report all infants born out of wedlock. All physicians when making reports of births should indicate it when they have reason to believe that the child is born out of wedlock, and all physicians examining for prenatal care should make similar reports to the proper authorities—who should forthwith send such information to the State board of children's guardians. This board should then assume a guardianship ipso facto, as soon as it is satisfied that a child has been born out of wedlock, and it should be the duty of such a board to have discreet agents—for careful inquiry work, for the best kind of case work, and for follow-up supervision. Immediately after the report has been made of a child having been born out of wedlock, it is important that the board's visitor see that suitable medical and nurse's care and follow-up work are provided; that a statement regarding the child's paternity be secured; that an acknowledgment of such paternity be obtained, with suitable and adequate guaranties for support; and that court action be instituted to determine paternity for the purpose of obtaining adequate support. When the period of infancy has passed, the agents of the board would still have a responsibility not lessened by the lapse of time. The preschool period of neglected childhood is beginning to feel the influence of society's concern. During those years, the mother who has struggled to keep her child born out of

wedlock usually gives up the struggle and the child becomes an institutional or a public ward. Perhaps the father is not doing his duty; perhaps a good friend can give the encouragement or advice which, with good follow-up work, may save the mother for her child.

The child's school years are equally full of perils. He needs to obtain a better schooling and better training for the world's work than the average child. He needs a father as well as a mother for normal upbringing. A wise visitor who can become a welcome friend may in large measure make up for this loss; she may place herself in the position of advisor, in case the mother's interest in the child is genuine, in order that the attachment of mother and child may be strengthened—an association only to be broken when the mother through her conduct has shown that her influence is debasing or when questions of health or the proper care of the child make a separation necessary.

The board should have power to enforce its decisions as against the mother: but if the mother should feel aggrieved regarding any decision made by the board, she should have the right to take the matter before the most accessible court of chancery jurisdiction, from whose decision on the questions at issue there should be no appeal on the facts, provided only that the court should have no authority to discharge the child from the board's guardianship. The board should exercise guardianship until the age of 21 or until marriage, and its consent to the child's marriage shall be necessary up to the age of 18 to make the marriage legal.

Minnesota has the beginnings of such a system of guardianship and it has begun at the right place. It has insisted upon control and supervision of maternity homes and hospitals. A true story of the procedure in many of our private maternity homes would make the stones cry out for vengeance. Minnesota is leading the way and we are looking to her for intelligent leadership in this whole matter.

There is no subject in child-welfare work in which there is a greater divergence in practice than in case work with the unmarried mother and baby. There are children's societies whose principal task seems to be the easy acceptance for care of infants born out of wedlock, and to some of them it seems almost as if this were their only reason for existence. The agents of such societies have the sincere belief that they are bringing blessings both to the mother and child if they separate the two early, if they make no searching investigation of either family but place the infant in a home that looks good or that can bring good recommendations. There are other societies that are more rigid in their requirements but that adhere to the general belief that the social stigma attached to such a birth is too great to be overcome in most cases, and a ready adoption of the infant into a new family is the best permanent remedy. There

are still other societies which lay a greater emphasis upon the mother tie, and they have worked hard by the most flexible methods to maintain that tie.

But few clear-cut principles have emerged so far for wide recognition. Perhaps the most important of all is the recognition of the fact that the marriage of the mother while the child is still an infant, either to the father of the child or to some other man who is willing to accept the child into his family, has brought happiness to mother and child in a large percentage of such cases.

A board of children's guardians should not be pledged to any single procedure or remedy. A department charged with the great responsibilities outlined must be rigid or flexible as the best interests of each case seem to require, consistent with the general policy of protection and care of mother and child and the proper protection of our communities who have helplessly allowed the problem of illegitimacy to hang like millstones around their necks in the past. The time has come when we should resolutely take up the burden, both in fairness to mother and child and in protection to the community.

Let us not hesitate to give the child a better legal status which will not implicitly make light of wedlock. The injustices of our present treatment cry aloud for remedy. The need is great. The complications are stupendous. Only the State itself can get such a grip upon the situation that there may result a reduction of illegitimacy, a greater protection to all concerned and a greater human kindness to society's victims.

ADA ELIOT SHEFFIELD, *Director of the Boston Bureau on Illegitimacy.*

I am entirely in accord with Mr. Carstens in his main points: (1) That the protection and care which we afford the child born out of wedlock, as well as its opportunities for education, should approximate as closely as possible those of the legitimate child; (2) that this protection and care can be best obtained through some sort of official responsibility; and (3) that the stigma which rests upon the mother and the child is inseparable from society's respect for monogamy. As for this stigma—just so long as it adds to our self-respect to think of our own parents as having observed custom and the moral law, just so long will it be impossible for us to feel an equal respect for those persons whose misfortune it is to have had parents who did not observe the moral law.

Since the whole problem of illegitimacy turns in a sense upon the stigma, I should like in this connection to raise two questions. The first is this: We hear it frequently said that this stigma is an injustice to the child. Is it profitable to speak of it as an injustice? There is a stigma upon the child of a thief. A girl born with a disfiguring birthmark, while she does not suffer from a stigma, suffers

from a very serious handicap. Are those injustices? When you use the word "injustice" you mean that there is an agent who has been unjust, and that this agent can be brought to account and made to change. In the case of the stigma upon a child born out of wedlock no one person is responsible; it is society, and society can not change that attitude without sacrificing values that are even greater than is the repute of an individual. "Injustice" is an inaccurate and, therefore, confusing term as thus applied.

The second question is frankly one of terminology. The word "bastard" we object to because it has been used for generations to convey a sneer. From the point of view of terminology, however, the word has a certain advantage. It supplies not alone an adjective, "bastard" son; an abstract noun, "bastardy"; but also a noun "bastard," a single word to describe the child.

The word "illegitimate" I confess I do not feel to be objectionable, as does Prof. Freund, on the ground of sentiment. I try not to use it, but merely out of deference to the feelings of other persons. This word has an adjective, "illegitimate"; it has an abstract noun, "illegitimacy"; and it has a verb, "legitimize."

Prof. Freund suggests the word "natural." That word has serious objections. In the first place the noun "natural," used to describe the child, suggests a fool. The verb "naturalize" is used in other connections so frequently that to use it here as we use the word "legitimize" would prove confusing. The abstract noun would be "naturalness." For a court term, Prof. Freund suggests "filiation," or "affiliation proceedings," a word with an entirely different root. If we kept "legitimize" as the verb, that would make verb, adjective, and noun from three different roots.

It seems to me that here is a problem for a committee on nomenclature. We need a new word. And if there is such a committee I beg that it will get a word that will supply us with noun, abstract noun, verb, and adjective all derived from the same root—the scientific method for terminology.

Rev. ROBERT F. KEEGAN, *Secretary for Charities to the Archbishop of New York.*

In a certain stratum of thought upon this very important problem the economic implication of illegitimacy has been chiefly insisted upon. Outside the field of professional service, citizens who have considered the problem in any way have looked primarily at the moral stigma placed upon the mother and her child. While neither of these views ought to be entirely put aside, we must in this Regional Conference first examine the question from the standpoint of justice—justice to all four interests concerned—(1) to the child, (2) to the mother, (3) to the father, and (4) to the community. Justice to all is the basic ethical principle that must underlie work in this field.

This point of departure is fundamental and compelling when we consider what is practicable in the development of better care and protection for children born out of wedlock.

1. Justice demands for the child the right to life. Life begins at the moment of conception. Any injury to the life of a child, whether before or after birth, is an act against justice; it is the stealing from a human soul its God-given right to existence. Justice for the child further demands proper medical and scientific care and advice for the mother during the prenatal and postnatal periods. As Mr. Carstens so well remarks, "the mother of a child born out of wedlock undergoes such mental distress and anguish and so many physical deprivations that it is not possible for her to go through this experience in any normal way." Therefore, the medical and social help which we provide must be tempered by great kindliness and sympathy if we would safeguard her from the anxiety due to her civil condition. It is human life that is in question, and it matters not whether that life begins in the womb of an unmarried or a married mother.

Justice asks for the child of an unmarried mother the proper kind of care at birth. What person will deny that the child of unmarried parents has the same right to scientific care and attention as now surrounds childbirth generally?

Justice calls out with clarion cry for a fair opportunity for such a child. The babe of unmarried parents has the same need for parental care, affection, and discipline as any other child. It is strange that our practice in many instances seems to indicate that we do not believe this to be true. Fair opportunity for the child demands that this need for affection and care be met by the child's own parents, if possible, and if not, by those who take their place. If natural parents are not able to provide for their child, foster parents must be found who will do so. Fair opportunity asks for the child a removal of all moral stigma attached to its birth. Such a mark must not be allowed to stand as a handicap in its path.

Development of the powers of the child demands the nearest possible approximation to normal home life, with its consequent opportunities for religious, educational, recreational, and vocational guidance in harmony with American ideals. Proper development for the child should safeguard its right to motherly care. If the child's own mother has assumed the responsibility for its upbringing, and a need for State aid presents itself, provision must be made for her participation in the benefits of so-called mothers' pension acts and workmen's compensation laws. The rights of children thus briefly set forth clearly indicate the general tendency of the principles of justice in dealing with this problem.

2. The question of justice for the mother renders it expedient to think of the subject as falling into two divisions, namely, duties and

rights. A mother has the duty of respecting the right to life of her unborn child. If she is normal mentally and physically she should nurse her own child. It should be recognized that one can not lay down any arbitrary law in regard to this matter, for certain considerations arise from time to time which may overrule such a duty in individual cases. The mother must secure for her child a normal home life; and this clearly contains the obligation of establishing for her child its claims upon the father. In the accomplishment of this result the mother can be of great assistance by giving the necessary information for proper birth registration. In so doing she is the means of bringing the father to the fulfillment of his obligation. The mother has the duty of the care, education, and proper upbringing of her child. She must see to it that the child is not handicapped by the circumstances of its birth.

The mother has certain rights as well as duties. She has a right to kindly sympathy from all, to protection against scorn and stigma. In this connection it is difficult to refrain from strongly condemning those in the community at large who are so lacking in the fundamentals of Christian charity that they assume a scornful attitude toward such a mother. Their attitude would indicate that the unmarried mother is a person with a dread disease; she must not be met with; one must not associate with her. Modern Pharisees who assume this semblance of cold hauteur, chiefly prompted by convention, ought to view with a more charitable eye this problem of the unmarried mother. The world's thought on this point must be brought back to the teaching of the Master: "He who is without sin among you, let him cast the first stone. Has no man condemned thee? Neither will I condemn thee. Go, and sin no more."

The unmarried mother has the right to her own future development along the lines of decency and self-respect. She must be accorded every opportunity to achieve for herself a peaceful, contented life, enjoying the respect and good opinion of her associates. This right of the mother will have to be considered in any law conferring the right to the father's name upon the child. Such a right should be permissive, not mandatory. The mother has the right to assistance in caring for her child. Her economic burden must be shared by the father.

3. The principle of justice when applied to the father again divides into duties and rights.

The father became liable at the time of the improper relationship to the responsibilities of fatherhood. He should therefore be held to a strict accountability. His responsibilities toward the child are these: (*a*) He ought to marry the mother when marriage is possible and advisable. (*b*) He should carry his share of the economic burden or, if the law so states, the entire expenses of care immediately

before and after confinement. It should be a charge upon his conscience not to slur the reputation of the mother by accusing her of illicit relationship with other men, thus seeking to evade his own responsibility. If he does make and prove such a charge, he still should be held responsible, for his wrongdoing is not thereby diminished and is not to be condoned.

He is responsible for his share in the care and upbringing of the child to maturity; consequently failure so to provide should render him liable to the operation of the nonsupport and desertion laws.

First among his rights should be placed the fundamental one, that the fact of his fatherhood of the child in question must be firmly established. In many instances, where good case work is done, the father will admit the parentage of the child, and this admission is sufficient without further proof. He has a right to his good name in the community, so far as this is consistent with the right under certain circumstances to make a lump-sum settlement; but this right in most instances should be lost in the greater right of the child and its mother.

4. The community has the duty of safeguarding the rights of all parties concerned. Those unable to protect their rights to life and its opportunities must have these rights guaranteed and protected by the State.

The community has the duty of determining questions of parentage, and the further task of erecting proper machinery to prevent parents from evading their responsibilities without good and sufficient reason. The question of surrender of the child and the relation of this question to the community comes in at this point. The determination of the sufficiency of the reason for surrender must not be left in private hands but must become a matter of community control.

The community has the duty of protecting itself from imposition. It should not have imposed upon it the support of children whose parents are well able to meet the expenses of proper care; therefore the obligation exists to create a proper agency to determine the merits in each individual case.

When parents are unable or can not be brought to assume their responsibilities, it becomes the duty of the community to provide for the care of their children.

The process for the determination of parentage should not involve injury to the reputation of the father and mother if such loss of reputation can be properly avoided; therefore whatever machinery is finally set up should provide for informal and private hearings.

The community has the further obligation of safeguarding the child from any handicap due to its birth. This touches directly the matter of public records. Public birth records should not be open for consultation in a promiscuous way; only properly accredited and

responsible people should have access to them. Transcripts of birth records should not indicate the civil condition of the child's parents.

In the application of these principles of justice, we must take human nature into consideration. We must realize that there is a traditional stigma placed upon the mother of this type, and in formulating our advice to her this fact must be kept in mind. The fear of exposure and scorn is often great enough to lead her to disregard all scientific and ethical plans. Lack of thorough understanding of the position of the unmarried mother leads us frequently to advise things which we ourselves would never do under like circumstances. Mere efficiency rules will never lead to the solution of this problem. We must get down to the understanding of each case and the influence at work in each instance. We must keep constantly in mind the conviction that the rights of the child are paramount. Most of all we need good case work, based upon the proper kind of study at each stage. It is good case work which will properly determine the child's parentage, the child's future, and the moral consequences of keeping the child with the mother or of planning for a complete separation. Thorough investigation is necessary in order to learn the character of the parents and to predict the result of placing this or that responsibility upon either or both of them.

It is only by combining the fundamental principle of modern case work—namely, individualization of study and treatment—with firm and sound principles of justice to all concerned, that we can hope for an adequate treatment of problems of the unmarried mother and her child. Proper legislation will not decrease, but will rather increase, the extent of this problem. Many cases hitherto settled privately will come to the knowledge of the public authorities. To decrease the problem, social work must preach the doctrine of self-control. When God "created man in His own image" His first gift to him was dominion. The greatest dominion a human being can exercise is dominion over self. Every man reigns a king over one kingdom—self. He should not only reign, but rule. His individuality is his true self; his best self; his higher self; his self—victorious. His guide is his conscience. His thoughts, his words, his acts, his feelings, his aims, and his powers are his subjects. With firm strength he must control them, or they will finally take from his feeble fingers the reins of government and rule in his stead. Man must first be true to himself, or he will be false to all the world. He may attain self-control if he only will. He can not gain it except through long-continued payment of the price in small progressive expenditures of energy. Self-control may be developed through self-sacrifice in precisely the same manner as a weak muscle is toned up by little exercises day by day. Let us teach this truth to those with whom our work brings us into contact.

In our work with this most baffling of all social problems, let us ever turn our faces toward the east for the faintest sunrise of new inspiration. Let us make Right our highest guide, Justice our finest aim, Truth our final revelation, and Love the constant atmosphere of our living, then truly will we reign and rule and convert others to our standard.

REPORTS ON RECENT LEGISLATION.

THE SCOPE AND PURPOSE OF THE MINNESOTA LAW.

WILLIAM W. HODSON, *Director of the Children's Bureau, Minnesota State Board of Control.*

[This paper, given by Mr. Hodson at the Chicago conference, February 9, was read at the New York conference. It may be found on page 140.]

THE MARYLAND LAW PROHIBITING THE SEPARATION OF INFANTS FROM THEIR MOTHERS.

A. MADORAH DONAHUE, *Henry Watson Children's Aid Society, Baltimore.*

The Maryland law prohibiting the separation of children under 6 months of age from their mothers for purpose of placement in a foster home or institution, except under certain specified conditions, was passed by the legislature of 1916, and became operative June 1 of the same year. The statute provides three methods by which such separation may legally occur: (1) By filing with the State board of charities certificates of two physicians who have practiced in the State for a period of five years, stating reason why the separation is necessary to insure the physical well being of the child or the mother; (2) by act of a court having competent jurisdiction; (3) by written approval of such application by the State board of charities.

This statute grew out of the findings of the Maryland State-wide Vice Commission, whose report was made in December, 1915. The exhaustive investigations made by that body included a very complete medical examination and a social history of each of the inmates of Baltimore's then segregated district; a certain proportion of these women—I believe, about half the entire number—stated that they had drifted into their mode of life after having given birth to a child out of wedlock; a large proportion of these mothers—I think, about 80 per cent—had no knowledge of the whereabouts of their children. The information thus obtained led to investigation into the general fate of such children and their mothers. This investigation covered the attitude and the activities of clergymen, doctors, nurses, social workers, midwives, and others. It was found that a very definite traffic in babies existed; that sums of money were accepted by persons, ostensibly to defray the expenses of placing these babies in good institutions and foster homes, while in reality the transaction was a purely commercial one—the supposed agents of mercy pocketing the money and disposing of the children by any means possible. This audience needs no suggestion to indicate the type of care thus afforded countless innocent babies. Reputable hospitals, too, openly lent themselves to the transfer of such babies to foundling institutions.

The Maryland law was aimed at the individuals and agencies engaged in this nefarious business; it does not tend to punish the mother, as has been stated. Under the wording of the statute, it would not be possible to proceed against a mother; action must be taken against the persons who receive children or arrange for such separations.

Enforcement of the law is vested in the State board of charities; on its passage the secretary of the State board declared that his office lacked the necessary machinery. It was recognized that a system of prosecutions of many persons ignorant of the law would be both impracticable and undesirable. The following plan was decided upon: The Children's Aid Society offered its services as a clearing house; the State board and the various other agencies were notified that violations of the law and applications for separation might be filed with us. The State board has followed our recommendation in each case referred for investigation. Where separations have occurred, the law has been explained to those violating it; when such persons have not been amenable to persuasive methods, summons have been issued by the State attorney or a police magistrate. I know of no instance in which persons summoned have failed to comply with the conditions of the law. I know of only two cases which have been taken to the grand jury; one, the case of a notorious midwife who was well known to have profited by traffic in babies born in her home; the other, that of a well-known rooming-house proprietor.

The law contains no provision which might be interpreted as applying to children born out of wedlock, rather than to those of legitimate birth. One criticism has been that the law does not provide material relief for the unmarried mother, while forcing her to forego the advantages of certain occupations in order to nurse her child. Examination of the statute dissipates this charge. While breast feeding is almost invariably the result of keeping mother and baby together, legislation can not entirely regulate such a matter. No public relief for mothers is provided in Maryland; legitimate and illegitimate mothers alike receive relief only from private agencies.

The superintendents of the three best institutions in Baltimore receiving young babies have stated to me, both before and since the passage of the law, that they welcome such a measure.

The argument urged by some of the opponents to the bill, that it would cause an increase in the number of foundlings, has been proved untenable. During no year since June 1, 1916, has Baltimore faced such an actual increase; the records of the city charities show, for the first year that the law was in operation, 18 foundlings, as against 25 during the preceding year.

Obviously, one result of such a statute should be a reduction in the rate of infant mortality. I regret that I can quote no figures.

Access to the birth and death records of children covering the period necessary for a satisfactory study was requested last year; it has not been granted.

THE MASSACHUSETTS LAW.

FREDERIC H. KNIGHT, *Superintendent of the New England Home for Little Wanderers, Boston.*

The Massachusetts act relative to illegitimate children, chapter 563 of our legislation in 1913, is entitled in the summary of laws, "An act relative to illegitimate children and their maintenance." I would like to call your attention to the very opening sentence of this act, which goes a long way toward determining the spirit of the rest of the act and the modus operandi of its enforcement: "Whoever, not being the husband of a woman, gets her with child, shall be guilty of a misdemeanor." And that word "misdemeanor" suggests under our State code a great many things, and amongst them the question of who may bring the complaint. While as a matter of practice, I think, among all those who have much of this work to do, the complaint is usually brought by the mother, because in that way her evidence which is so essential, is secured, it may be brought by the overseers of the poor, or by the officers of the State board of charity, or by anyone else who has a real interest in the case.

In our State there is also a workable method of adjudicating paternity, and while it is not always used it always may be used providing the proper complaint is made and hearing secured. And under certain circumstances this adjudication of paternity becomes final and can not be changed except in case of a new trial, which is opened whenever there is sufficient cause, in the discretion of the judge concerned.

The act also covers the ground upon which a complaint may be dismissed, and it makes provision for payment, under certain circumstances, during the child's minority. The great advantage on this point over the old law is, of course, that under the old law arrangements—usually inadequate—could be made out of court, by which the mother signed away her rights, outside the statutory procedure.

RECENT DEVELOPMENTS IN NEW YORK.

JAMES D. CARR, *Assistant Corporation Counsel of New York City*

It is gratifying to know that the problem of the illegitimate child, whom, as has been emphasized here, the common law in its cruelty has stigmatized as filius nullius, is awakening the enlightened interest of organized society. Society is beginning to recognize the fact that the consequence—that is to say, the birth of a child—has no part in the moral obliquity in the conception of the child, and to realize that the child should not be penalized. It is also beginning to recognize the fact that the unmarried mother should not be penalized by society except so far as such treatment may be corrective.

New York has not taken an advanced stand with respect to legislation relating to the social status of the illegitimate, or natural, child. At the present time the illegitimate child is the heir of its mother, only if the mother has no lawful heirs; it has not been made the heir of the father. There have been, however, some four recent acts of the legislature of New York which have touched upon illegitimacy. One is a provision amending the domestic relations act of the State, and providing that in adoption proceedings no record shall be made of illegitimacy. That was done by chapter 453 of the Laws of 1916.

The next recent legislation is chapter 516 of the Laws of 1918, which provides for probation. Before the enactment of this legislation it was mandatory upon the court of special sessions, which in this State has original jurisdiction in bastardy proceedings, to make an order declaring who was the father of the child, and it had no latitude as to its procedure. If an order were made and if an undertaking were required as security for that order, unless the defendant gave that undertaking he was committed to jail. The length of his incarceration rested with the county court, and the county court upon application could discharge the defendant at any time; and if the defendant was discharged and he later became financially able, he could be recommitted. Under the legislation of 1918 the court is permitted to place the defendant on probation; if the defendant violates that probation, the probation may be revoked, and the defendant may be committed on the original commitment until he shall give the original undertaking. The court of special sessions was also given concurrent jurisdiction with the county court to discharge the defendant if he had been committed after an order of affiliation.

By chapter 517 of the Laws of 1918 the court of special sessions is now permitted to inquire into the paternity of a child born outside the State of New York. Prior to that time, the courts of the State had no such jurisdiction. Under this provision the complaining witness, as the mother is designated, may make application for the affiliation of such child in the same manner as in the case of a child born within the State of New York, provided the complaining witness be a bona fide resident of the city of New York. That is a little different from the suggestion of Prof. Freund, namely, that a woman may make complaint to the court although she may not be a resident of the State where the complaint is brought. I think it would be a good idea that such legislation should be adopted; but when I framed for presentation to the legislature of New York this provision for allowing a person whose child had not been born in the city of New York to make complaint, I was satisfied that there would be considerable hostility to a provision which permitted a woman not a resident of New York City to come here and make such application.

In order to get something I therefore framed the bill so that complaint could be made only in case the woman became a bona fide resident of New York City.

Of course the question of bona fide residence is a question of fact and does not depend upon the length of time during which a woman may have been a resident of New York City. A woman may now come to New York City and assume her residence here, and if her child is in New York City or in New York State she may make application to have her child affiliated.

There is just this lack in our law. Sometime ago a young woman who had formerly resided in New York City but later lived in Connecticut with a man who became the father of her child initiated proceedings in Connecticut and secured an order providing for the payment by him of a certain amount of money, she also being required—in accordance with the law of Connecticut—to pay a certain amount of money. She came to New York, and the father of her child came to New York; but since there is no provision in the laws of New York State by which an order of affiliation secured in Connecticut may be enforced in New York City, though the father is here and she is here, she is left without any support for her child. It seems to me that it would be well if the legislature of New York should pass a law providing that an order of affiliation made outside the State, if the parties come and reside in the city of New York, be enforced by the city in the same manner as an order of affiliation made in the city of New York.

There is another provision which has been adopted by the New York Legislature which is chapter 202 of the Laws of 1919. That does not come within the field in which I am interested officially, but it does come within a very important field, and that chapter amends section 1745 of the Code of Civil Procedure and also sections 1749 and 1751 of the same. Those are provisions which deal with applications for annulment in the supreme court of voidable or void marriages, a voidable marriage in our State being a marriage which is void only from the time it is declared so by a court of competent jurisdiction, and a void marriage being a marriage which is void ab initio. In cases of voidable marriages the child is always deemed to be the legitimate child of the parents.

Under chapter 202 of the Laws of 1919 the court is now permitted, in actions for annulment, whether of a voidable or of a void marriage, to declare that both parties—the incompetent and innocent party as well as the competent and guilty—are the parents of the children. That is to say, children may be declared the legitimate children of both parents, even in the case of an incestuous or a bigamous marriage. That is a radical departure from the law as it formerly

existed—a departure in line with the humane sentiment that organized society is now showing toward the problem of illegitimacy.

If I may refer to certain suggestions made by Prof. Freund, in New York State at the present time there is no statute of limitations, so that bastardy proceedings may be initiated at any time. In this State there is also no limit as to the amount of money that a court may award when it makes an affiliation order; there is no limitation as to the time for the payments—this matter rests on the judicial decision of the court. The court may decide that an illegitimate child must be supported in the same manner as a legitimate child—that is to say, during its minority or until the child becomes actually self-supporting. Thus many of the suggestions which Prof. Freund would like to see adopted through uniform legislation are already practically in force in New York State.

Our proceedings are designated as special proceedings of a criminal nature; but they are looked upon as civil proceedings—that is to say, we are required to establish paternity by preponderance of evidence only. Once the court has clear jurisdiction, however, we may secure an order of affiliation in the absence of the defendant; the proposition of law being that, if a defendant fails to appear when he has a right to appear, he will be considered as having waived his right to appear.

In addition to that we have the right, in case we deem it necessary, to provide that a man shall give a new undertaking. If for any reason an undertaking is void, if we sue on an undertaking and can not collect in a court of justice, or the person on the undertaking becomes bankrupt, or the debtor can not be found the defendant is required to give a new undertaking.

One thing is lacking in our law. If the defendant leaves this State we can not pursue him. That can be rectified by uniform legislation, as suggested by Prof. Freund, with such amendments to the law as would enable a woman to come into this city to sue, although she may not be a resident of this city. With some other minor changes, it seems to me that the law relative to illegitimacy in New York City would be a model statute, so that we could reach almost every contingency—that of a child born in this State or of a child born outside the State; of a woman living in New York City or elsewhere in this State, or of one living outside the State; and the contingency of affiliation made outside New York State. At this session of the legislature new legislation will be proposed which will embody some of the features suggested by this conference and will also do away with some of the other inconsistencies of the common law.

AMENDMENTS TO THE PENNSYLVANIA LAW.

DAVID J. TERRY, *Executive Secretary of the Children's Service Bureau, Pittsburgh.*

In 1917 Pennsylvania took a step forward and made it a misdemeanor for a parent to wilfully neglect to support a child born out of wedlock whether that child shall have been begotten or shall have been born in the State of Pennsylvania or not, and made such misdemeanor punishable by a fine of $500, or imprisonment for six months, or both. So the order for support is to be made upon the father and is to be enforced by the family desertion act of 1867 and its supplements.

There are several very interesting parts to this 1917 law. Proceedings may be instituted upon complaint made under oath or affirmation by the parent of such child. There is no limitation as to whether the child shall have been begotten or shall have been born within or without the State and no limitation as to residence. There was also no limitation as to when complaint might be brought. But in 1919 the following limitation was put in that section: "All prosecutions under this act must be brought within two years of the birth of the child: Provided, however, that where the reputed father shall have voluntarily contributed to the support of the child, or shall have acknowledged in writing his paternity, then a prosecution under this act may be brought at any time within two years of any such contribution or acknowledgment by the reputed father." This was really a step backward.

There is another quite interesting provision: "Any person who shall, at any stage of the proceedings under this act, knowingly make false statements as to who is the parent of a child, shall be guilty of the crime of perjury."

BIRTH REGISTRATION AND ESTABLISHMENT OF PATERNITY.

DETERMINATION AND RECORDING OF PARENTAGE.

WM. H. GUILFOY, M. D., *Registrar of Records of the New York City Department of Health.*

I might say that I have come here in a receptive mood. I want to acquire some knowledge in regard to the questions which arise here. All that I can do for my part is to tell you of our attitude, officially, toward the registration of illegitimate births and the legitimation of those births whenever possible.

Of course we are interested from another angle, and that is the angle of the prevention of infant mortality. You all know that the death rate among illegitimate infants is double, and in some cities treble, that of legitimate infants. We are interested as a department in trying to prevent the exceedingly high mortality which prevails amongst those infants. And I think it would be an excellent idea if some plan of procedure might be brought into effect whereby the health department could supervise the control of those infants after birth.

In regard to my own work and my attitude as registrar of the department, I might say that for many years—the past twenty years—I have always assumed the attitude that we ought to try and legitimate these children if possible, at least, officially; and I have always encouraged the coming to me of the mother or father, or both, in order to see that officially the child has been made a legitimate child. With that end in view I have taken care in regard to such visits by the parents (and they have been quite numerous and are to-day going on; probably every week we have one or two) to have them treated as strictly confidential. I do not allow even one of the clerks of the bureau to come in contact with those persons. I prepare affidavits myself, swear them myself, in order that there may not be any dissemination of information which should not be.

I have practiced that all along these twenty years. Of course, I have not gone out into the highways and byways and proclaimed myself as wanting to do this thing; but I have encouraged it as much as I have been able.

The department of health is interested in obtaining a registration of every birth that occurs in the city. I have no doubt—in fact I know—that in the olden days a great many of these illegitimate births escaped registration, many more than at the present time. The physicians of the city would absolve themselves of any

violation of the law, though it would be a violation of the law, if they forgot to send in certificates of birth in these cases Everything was kept sacrosanct, and we never received notices of those births. To-day, I think that the physicians send in certificates of birth in these cases. I do not vouch and can not vouch for the accuracy of the information upon the certificates of birth, especially as to names. We have no means of inquiring as to the truth of the statements made upon the certificates of birth on file at our office. We have no force to find out whether these statements are true or not. So I have no doubt that at the present time we are filing in the department of health certificates which may contain misinformation as to names, etc., of births that occur in the city. I know that quite a number of persons in trouble come from suburban towns—come to the City of New York and enter our institutions and give false names, and that those names are on record as their true names down at the department of health.

I feel, as I said at the commencement, that I am here in a receptive mood. I should like to know a great deal more about the subject than I know at present; and if there is anything that can be brought to the attention of the board of health that would tend toward ameliorating conditions I should be most happy to do so at a future time.

REPORT ON A SPECIAL INQUIRY FOR THE NEW YORK COMMITTEE ON CHILDREN OF UNMARRIED PARENTS.

FLORENCE LATTIMORE.

Why the Inquiry Was Made.

Under the auspices of the New York Committee on Children of Unmarried Parents, a six weeks' inquiry was undertaken for the purpose of securing fresh and definite information regarding:

1. The number of children born of unmarried parents in New York City in a given year—1919.
2. The attitude of the unmarried mother herself toward three fundamental questions:
   (*a*) Disclosing the paternity of her child;
   (*b*) Compelling the father to help support the child;
   (*c*) Keeping the child with her.

The inquiry into the number of children born in New York City of unmarried parents in 1919 involved a first-hand survey of existing machinery for handling birth certificates and its effectiveness in protecting or promoting the interests of the child born out of wedlock.

This study covered only the Borough of Manhattan but included the cooperation of 45 different agencies. It is not yet complete. Differences between the records of hospitals and other social agencies

dealing at first hand with mothers and children and the records of the registration bureau of the health department have been found and are being checked up and studied. It is hoped that as a result of this study more accurate methods of report and registration may be worked out. A deep interest and genuine spirit of cooperation have been shown on every hand.

The Number of Illegitimate Births.

The birth certificate used in New York City has no definite question as to whether or not a child is of legitimate birth. Now, as to whether such a question is desirable, I have no opinion whatever. Its omission, however, makes classification from the birth records into legitimate and illegitimate births purely a matter of deduction. If the space provided for the father's name is left blank, or "unknown" or "O. W." ("out of wedlock") is written in it, or if the surname given for the baby is not the same as that given for the father, it is deduced that the child of the record is of illegitimate birth. But there is danger in using this method because the Spanish people, the Italians, and some other foreign peoples customarily give their babies the mother's name and not the father's.

The importance of correct information is, of course, obvious to all who have seen the long stream of persons waiting in the recorder's office of the department of health. The data given are of special importance in connection with the compulsory school laws, the child labor laws, and for insurance purposes.

The best figures we can give, therefore, are approximate and not official. The number of births in Manhattan Borough in 1919 was 56,000. The number of illegitimate births for which there are records in the hospitals caring for such cases is 1,300. This number is probably quite incomplete, because some of these institutions were very erratic in their manner of making and preserving records. Less than 50 births were reported as illegitimate from other than institutional sources, but we can never know just how many such births there were.

The Hospital Method of Obtaining and Preserving Information.

When confinement cases come into the dispensaries or the hospitals, the economic side is usually stressed by the registrar or clerk—usually male—though sometimes a nurse in a clerical position. The woman is asked whether she has a husband, whether she can pay confinement expenses, and so on. In some hospitals, information for the birth certificate must be obtained after labor begins. I know personally of instances where the mother had been known in the hospital for months prior to the day labor began, but no information gained during that time was used on the birth certificate. In other

hospitals, the information must be secured as soon as possible after delivery. Sometimes the ward nurses have blank certificates and are told to get the information within the ten-day limit. Sometimes, usually in pay cases, the matter of illegitimacy is hushed up.

The hospital birth certificates are made up like a bank checkbook. The certificate is torn off and sent to the department of health; the stub, which should duplicate the information, is retained by the hospital. If the information as to legitimacy or illegitimacy is not entered on the regular books of the hospital, it must be sought for on these stubs. If they are properly dated and recorded, the task is easy. But they may be stamped with the date the birth certificate was sent to the health department, or with the date the birth was recorded; and they may be kept in an old shoe box in a basement so damp that the ink has run so that the record is illegible. In one hospital, no record was kept except the name of the mother and whether she came in an ambulance, a taxi, or what, and the date of the baby's birth.

Social-Service Records.

Then there are the social-service records. Sometimes the workers go into the hospital wards and follow up the cases after discharge from the hospital; at other times they do not see the cases until the women are referred to them. Perhaps an unmarried mother has passed through the hospital as married, and has told her story several times to different persons before she reaches the social-service worker, to whom she repeats it glibly. One institution pays no attention at all to a girl's first statement. The workers expect that she will tell the facts only after her confidence is gained. When the birth certificate is sent in from this institution, it contains the latest information that could be obtained from the girl within the time limit for recording.

The Attitude of the Unmarried Mother Herself.

A special study of the attitude of the unmarried mother herself toward disclosing her child's paternity, toward compelling the father to help in the financial support of the child, and toward keeping the child with her was undertaken from a certain sense of social justice. The committee members felt that almost everybody but the unmarried mother herself had been given opportunity to express opinions on these highly personal matters.

The need for special care at every point of contact which a hospital has with the unmarried mother is emphatically brought out by the answers received to the inquiry regarding the attitude of unmarried mothers toward disclosing the paternity of children, toward compelling the fathers to help in the children's financial support, and toward keeping their babies with them.

The value of the answers received lies in the fact that they were secured by workers whose relations to the mothers were such as to make the inquiries natural and sympathetic and who had had ample opportunity in each case to form a clear idea of the girl's personality. Those cooperating in this inquiry represented 17 New York agencies—five hospitals (three had social-service departments and two others kept unmarried mothers for long periods of time before planning the next steps for them), 11 convalescent homes, and one boarding-out agency. In addition, schedules were received from the Baltimore Henry Watson Children's Aid Society, from the Boston Bureau on Illegitimacy, and from four Philadelphia agencies—the Girl's Aid, the Personal Service Bureau, the Mother's and Children's Department of the Children's Bureau, and the Medical and Chirurgical Hospital Maternity Clinic.

Number of Schedules Considered.

This cooperation resulted in 500 schedules. Workers were asked to take cases in sequence, so that selection might be avoided, even though that meant inclusion of girls whose mental caliber made their answers of no account.

Few of the agencies cooperating had psychological reports for every unmarried mother upon whom a report was made. For the purpose of this inquiry the opinion held by the worker as to the girl's mentality and her reasons for holding such an opinion have been used as a basis for classifying the cases. Those considered subnormal have been thrown out of the tabulation. Sixty-seven of the 500 schedules were of this class.

The main point stressed was that the answers reported should be "real" in the sense of representing special effort to learn the girl's own attitude toward the questions raised. It was felt, also, that the statements of mothers whose babies had been born were of far greater weight than those of expectant mothers. Some agencies receiving but comparatively few unmarried mothers into their care, but handling the problems intensively, reported on girls who had been known to them for long periods.

Tabulation showed answers from all agencies to be proportionately the same and all the schedules, from whatever city, have been considered as a unit of testimony.

Nationality and Religion.

Of the 433 mothers considered 302—70 per cent—were American born while some 11 other nationalities were represented in small, scattering groups in the remainder. Negroes numbered 78—18 per cent—of the American born.

As far as religious affiliation was concerned 207—47 per cent—were Protestant, 152—35 per cent—were Catholic, 68—15 per cent—were Jewish, and the affiliations of 6—3 per cent—were unknown.

Ages.

The ages stretched a generation to its fullest extent—ranging from 13 to 43. One hundred and seventy-five—40 per cent—were under 20 years of age, 220—51 per cent—were between 20 and 30, and 38—9 per cent—were over 30. The ages of 9 girls of the last group were not given.

Occupations.

The occupations represent, in the main, the last wage-earning occupations the mothers claim to have followed prior to confinement. The list stands as follows:

Domestic servants	154	Laundresses	5
Factory operatives	94	Actresses	3
Clerical workers (including 8 stenographers, 3 bookkeepers, 2 cashiers)	52	Seamstresses	3
Living at home	23	Milliners	2
Attending school	22	Restaurant workers	2
Saleswomen	15	Messenger	1
Telephone operators	13	Manicurist	1
Teachers	7	Telegraph operator	1
Nurses (including 1 trained nurse, 2 pupil nurses, 1 trained attendant, 3 children's nurses)	7	Prostitute	1
		Unknown	27

The degree of education received is not known for more than a few. One is reported to be a bright college graduate. Many had been through high school. A few of the Negroes were clerical workers, though most of them were domestic servants.

Attitude toward Disclosing the Name of Child's Father.

Of the 433 girl mothers only 16 positively refused to disclose the name of the child's father, and 12 others claimed that the names were unknown to them. Three of those who refused to reveal the paternity were expectant mothers who may have changed their minds later on.

Willing to disclose name of child's father	350 (81 per cent).
Reluctant	55 (13 per cent).
Refusing	16 (4 per cent).
Claiming paternity unknown to them	12 (2 per cent).

Many examples of replies given to the question of disclosing paternity include answers to the other questions as to support and keeping the child.

A Russian Jewish salesgirl, aged 19, employed in an egg-candling factory. Will not tell name because the man is Italian, and she wants

no support from him. Race seems to be the difficulty. Unwilling to keep the child.

American Protestant factory girl, aged 18. Refused name because "trouble is all over now and why stir it up?" Wants no support, as she has promised the baby to some one who has a good home.

American Protestant, living at home, aged 19, is too ashamed to tell man's name. Thinks man should not be compelled to help support, as he is too poor, very young, and she considers herself equally to blame. Although she loves the baby, her friends do not know of it, and she hopes it will be adopted by her sister.

American Protestant factory girl, aged 19, baby 2 months old. Came to New York from New Jersey. Refused to tell man's name here as he is a Negro, while she is white; the New Jersey court refused to sanction their marriage, though they love each other, and he is a good man. The mother will do anything for the baby.

The soldier-father-killed-in-France type of reason for refusing to reveal paternity is not missing from the group. One girl was not interested in possible pension money, and there were other inconsistencies in her statements. She has no idea of giving up her child.

Several refusals were explained on the ground that "the man is married. He wouldn't support the child, so it's no use to prosecute." Another said vaguely but significantly, "Oh, he might do it for a while, but——."

One girl refusing to tell the name or to prosecute or to keep the baby said: "I can not be disgraced. I must get rid of it and go back to home and work." She is a foreigner, 25 years old, an operator on ladies' skirts and dresses. She is ignorant, frightened, and stubborn.

A woman, refined, well educated, well connected socially, had worked in an ammunition factory for six months preceding the birth of her baby. The year before that she had been a patient in a tuberculosis sanitarium. She said nothing could be gained by disclosing the man's name, as he was an advanced tuberculosis case himself and was supported by relatives. Her husband and two legitimate children know nothing of this affair. A physician who is a relative of hers cooperated with the social agency, and she was sent back to the sanitarium.

An American woman, aged 28, conceived the idea of advancing her social position by accusing a respectable fellow of the paternity of her child. When he disproved the charge she confessed she was married "to a man who is absolutely the most disreputable looking creature you could find." But she did not name the baby's father.

The difficulties in helping these mothers were very great. Some maintained what may have been a discreet silence in the face of all inquiries—however persuasively phrased. As one social worker

reports of a foreign woman who knew but little English, "She was very inexpressive and inarticulate—even in her own tongue."

The 350 girls who were willing to disclose the paternity of their children acted from a variety of motives, among which the influence of the friendly social worker, of course, loomed large. Yet, unfortunately, she was not always able to swing the girl her way. Unstable nerves, cool and calculated revenge, knowledge of other mothers assisted by court orders forcing the man to pay, or ignorance of what court action involved, turn about in kaleidoscopic fashion through those records.

Statements like the following throw some light on the reasons which actuated this group:

"He wanted an abortion, but I got just so disgusted I am glad to tell on him."

Another was eager to tell because the man she thought would marry her had deserted, and she wished to have nothing to do with him, preferring to carry the whole financial burden of the child alone.

"He oughtta be found and made to support the baby."
"He should help because he ruined my life."
"I tell because I want his financial help but—no marriage."
"Course I'll tell! Isn't he a father same as I'm a mother? Why shouldn't he help?"
"I'll tell because I think he ought to take the whole care of the baby—night and day."

Twenty schedules filled out for us by the manager of one convalescent home showed that 19 of the girls thought the man should be known and forced to help support because he should share the responsibility of the baby's welfare. In these definite ideas of paternity duty are reflected the ethical teachings of the social worker in charge, which have a bracing effect on hitherto cloudy-minded and emotional inmates. The one who withstood her persuasion was a stubborn Scotch waitress who was desperately protecting a Greek and all the while saying she wanted "nothing further to do with him."

This may be due to intimidation or bribery, both of which play a rôle in an unknown number of these situations.

Attitude toward Compelling the Father to Help Support Child.

Willingness to reveal paternity goes along with willingness to prosecute for support, as has been indicated. Of the 433 mothers 275—63 per cent—thought compulsion should be applied. Those thinking the father should not be prosecuted numbered 120—28 per cent—and 38—9 per cent—were magnificently indifferent.

Here again, the reasons given—for thinking the father should or thinking he should not—run along the whole scale of human emotions.

General theories on the justice of financial help from the man fall through under weight of personal feeling.

The predominating attitudes were due to fear—every kind of fear, from fear of the horrors of publicity and shame to fear of the questions the judge would ask; fear of seeing the men again even with the social worker and policeman in between; fear that, if payments were ordered, the men would have to pay the money to them direct; fear of revenge and of violence. One girl said, "He might pay something, but then he might get his gang to come and kill me." And several girls were afraid to prosecute for fear the men would steal the babies.

The "underground railroad" is a sure conveyance for all sorts of gossip about the courts. Some of the girls seem to know exactly what prosecution means, but the more innocent girls entertain the most fantastic notions about it. Much educational work is done to bring such mothers to a proper understanding of the situation.

Just as many girls refused to prosecute "because the man was married" as were eager to prosecute for the same reason. The greatest hindrance lies in what one girl described as the "whereabouts unknowniness" of the man.

One upstanding young Negro mother scornfully rejected the idea of support because she "had $10 in the bank." And another said: "Ain't I got a right to support my child all by my lone self? What's he ever done for it? No money from him for me." Still another quietly refused to sue for support because she was keeping the baby as a surprise for the father, who was working in the South. Pretty soon she expected him back, and she intended to have the baby serve as a wedding gift. She is a bright little soul, and was planning this little drama with much pleasure.

Attitude toward Keeping the Baby.

As far as intentions went 316—73 per cent—of the mothers expressed their willingness to make sacrifices for their children; 37—9 per cent—were willing to keep them if conditions were made easy; 61—14 per cent—point blank refused, and 19—4 per cent—were undecided.

Some who refused had already promised the baby to "relatives." One whose baby was several months old had already given her pickaninny away because "in complexion it just matched this aunt."

Dread of publicity was the reason back of most refusals to keep the babies. "Virtuous" relatives were frequently a deterrent. Again, virtuous relatives were often the ones who made it possible to keep the mother and child together. And sometimes this required great moral courage.

A worker speaks admiringly of a girl from a little New England farm. She first recited a carefully detailed story which involved an innocent man, but later she admitted she was shielding a married man. The fact that she had accused another person spoiled her case from a legal point of view and destroyed chances of securing support. But because of love for her child she shouldered her responsibility and went back home with her baby "in defiance of public opinion in a rural community."

This kind of devotion is frequent. "Why, I'll work my hands and feet off for my baby if he won't help support!" said another plucky young mother.

Conclusion.

Surely the need that stands out before all others in the situation as revealed by the brief study of certain aspects of the unmarried mother question in Manhattan, is for all-enveloping case-work standards. Given further development of the hospital social-service work now being done, and one mechanical detail after another would be corrected and strengthened.

Many corrections of detail suggest themselves in connection with improvement in records and further correlation of work, but the greatest need is for human interpretation and contacts at every point in the treatment of the unmarried girls.

Classifications and statistics do not explain the needs of these girls, the ones of supposedly normal mentality like those considered in this report. The impossibility of classifying them definitely is what makes strong case workers such a necessity, if the children are to be protected. The largest visible asset in such work is the intense interest of those who come into touch with the unmarried mother, and the greatest handicap is found in the ethical perplexities which these workers express. The idea of a series of forum meetings comes continually to mind. In such meetings the workers could discuss in detail one problem at a time or one case at a time, and clarify their minds as to the moral, vocational, and physical aspects of the unmarried mothers' predicaments. Until some such opportunity is given, the work can not move forward to fullest effectiveness. With it, much may be accomplished.

TYPES OF PROCEDURE FOR ESTABLISHING PATERNITY: THE USE OF THE CRIMINAL COURTS IN ILLEGITIMATE-CHILD ACTIONS.

HERBERT C. PARSONS, *Secretary of the Massachusetts Commission on Probation.*

When Massachusetts undertook in 1913 to substitute for the old and discredited bastardy law a new law for the support of children born out of wedlock, it was quite natural that it should have continued the resort to the criminal courts. These courts were the seat of actions for nonsupport under the uniform desertion act adopted

two years previously, and were justifying the reliance placed upon them in this class of proceedings. There was a rising tide of domestic relations business which the courts, uniformly supplied with probation officers, were proving their adequacy to handle. The courts had in a considerable degree become socialized—using that term to express the employment of their mechanism to provide the meeting of a social need—with a broadening of methods quite beyond the limits of traditional criminal procedure. In nonsupport cases the collections through probation officers had in four years grown from $25,000 to $82,000 in a year—on their way to the $635,000 reached in the year ended September 30, 1919. Both in the demonstrated efficacy of the criminal court in this practical undertaking and in the demonstrated readiness of the justices to treat the family problems with a broad social view, there was ample inducement to place in this tribunal jurisdiction over the problem of support for the illegitimate child. The author of the act has recently stated that the determination to place it there was based upon the wish to make available the probation service in these courts. The probate courts had no corresponding machinery for the enforcement of the decrees.

Six years of experience have justified the employment of the criminal courts for this class of actions. Precisely what was sought—namely, an effective process to secure the support of the child—has been found in the probation service. The domestic relations session of the criminal courts has become a common resort for the adjustment of family difficulties and for the enforcement of social obligations such as those involved in all nonsupport cases. The courts have broadened in their spirit; formality has largely given way to free conferences; and the probation officer has developed in both his capacities, that of investigator and that of enforcing officer. While it may be regarded as a provincial view, it may be said with positiveness that there is no sentiment in this State for a change in the base of these proceedings; indeed, none for change in the law, except as to minor features not at all affecting the general policy. For whatever it is worth in the discussion of the question as to whether illegitimate-child cases should be passed upon in criminal or in civil courts—whether they should be treated as chancery problems or as so far involving human behavior as to fall within the bounds of the criminal code—the Massachusetts experience and the settled opinion it has brought about are offered as evidence that the criminal courts are adequate to and fitted for the task.

The familiar objection to the treatment of these cases as criminal is that it subjects the mother to an ordeal she should not be called upon to undergo, with its sacrifice of modesty, its intimate exposure—not to say its disgrace. It is said that this not only works sentimental outrage but that it also involves the welfare of the child, inasmuch

as the mother will avoid the trial by failure to bring complaint. It is at least arguable whether or not the obligation of the State toward the mother includes a protection against exposure—when the assumption of uniform innocence in the mother lacks support in experience and observation; and whether there is not an obligation to protect against charges of paternity too readily brought and too easily sustained The interests of justice must be recognized, and no interest of society to bring about the participation of the father in the support of child can weigh against the need of preserving the reasonable defenses of the innocent. But this objection would be met in Massachusetts on quite other ground. It might be said that the test of years shows that the instances where the mother was put to an unwarranted ordeal are so rare as to be negligible. As it is now, the advantage of the mother—the tactical advantage, so to speak—in the trial of the case is so great that defense is proverbially difficult. Whether or not the surrounding of the proceedings with secrecy would be warrantable is open to question; but if the protection of the woman is to be sought, such regulation is attainable in the criminal court as readily as in any other. This consideration simply does not constitute a case for the removal of the proceedings. Under the Massachusetts law, the sole reliance is not upon the complaint of the mother, though in actual practice that is the usual, because the natural, starting point; and there is the further consideration that the mother can not be compelled to testify—an item of difference in the new law from the old bastardy law.

If the employment of the criminal court in nonsupport actions, and in this specific class of nonsupport actions, is simply fortuitous; if there can be made out in theory a case for the treatment of them as civil or chancery matters; if there is a lingering sense of odium in the label of criminality, the reply is that experience has amply justified the fitness of the criminal court for the business; that there is a value in the well-established enforcing power of the criminal procedure; and that the equipment which the modern criminal court is not complete without, namely, the probation force, is perfectly adapted to the task which is undertaken in the modern illegitimate-child legislation—the assured support of the child.

TYPES OF PROCEDURE FOR ESTABLISHING PATERNITY.

Discussion.[1]

Chairman: HENRY W. THURSTON, *New York School of Social Work.*

Mr. THURSTON. I am now going to ask for reports from local groups on types of procedure for establishing paternity, followed by general

[1] To economize printing, the discussions at the conferences have, in general, been omitted. The discussion on types of procedure for establishing paternity is here given because it dealt with an important part of the question not covered in Mr. Parsons's paper. For full names and official connections of the persons taking part, see p. 155.

discussion of the topic. Shall we hear the report from Boston on this matter of the jurisdiction and the court in which these cases should be brought?

Miss BURTON. Our conference felt that such cases should be brought under criminal procedure, because that gives us the use of the probation system, which is very valuable in the administration of our law. The procedure in Massachusetts in such cases used to be civil but because the need of the probation system was felt jurisdiction was transferred to the criminal courts. The criminal law also gives us speedy action. Actions in our civil courts are very long drawn out, and it is much less expensive for the mother to bring her case in the criminal court. We should like to see these cases brought in the domestic relations court, where the probation service is active.

Mr. THURSTON. May I ask a question? Suppose probation had been possible in the civil court, would you then feel the same about having the proceedings civil?

Miss BURTON. An action in our civil courts is very, very slow. It takes two or three years to get a case tried.

Mr. THURSTON. Suppose the mother were supported by the public, and in carrying through her case did not have to bear the expense of the action; would the fact that criminal court action is cheaper be a sufficient reason for saying that the proceedings should be criminal instead of civil?

Miss BURTON. Well, if the mother had the State attorney that would obviate the difficulty of expense.

Mr. THURSTON. Shall we have the reports from the other groups? Mrs. Glenn, for New York.

Mrs. GLENN. Perhaps we had better first answer the last question. It was felt by the committee that there should be a special court established and that we should not use either one of the two existing courts that have been considered, the domestic relations court or the juvenile court.

The New York committee believes that proceedings should be civil, provided that the abandonment of an illegitimate child becomes a felony. Proceedings should be brought in a court with both civil and criminal powers, available in general in every county in the State. The hearings should be private.

There should be no limitation on the period during which action may be brought to establish paternity.

The same procedure should be used for the apprehension of absconding fathers as in cases of abandonment of legitimate children.

Mr. THURSTON. I would like to ask one question. Do you understand, Mrs. Glenn, that our committee feel that if a domestic relations court or a juvenile court could have both the civil and the criminal jurisdiction a separate court must be set up?

Mrs. GLENN. A good many members of the committee are here and they have their individual opinion. I think there is one thing determined, that it was the feeling that it should be a court which would have wider powers than were lodged in the domestic relations court or the children's court. I think it was only a question as to whether it would be advisable to bring into the children's court these special questions.

Mr. TERRY. There is a difficulty, Mrs. Glenn, in getting these additional courts established. You can not have the hope of getting them very soon in any given State.

Mrs. GLENN. I think the feeling was that these questions were being answered not for the country at large but for the State of New York. The question of what would be practicable for the country at large would of course be dealt with in any generalized report. I believe, Mr. Thurston, that there is under consideration the codifying of all children's laws and procedure in the State of New York, and it is believed to be a possible thing that a special court might be established which should deal with the very questions that are involved in this questionnaire. Isn't that true, Mr. Thurston?

Mr. THURSTON. Yes, I think so.

Mrs. GLENN. It was in view of the peculiar situation in the State of New York that these questions were answered.

Mr. THURSTON. The circumstances under which your first answer—that the proceedings should be in a separate court—arose were these: We were contrasting what Mr. Carstens refers to and what has been discussed by Mr. Hodson—the State board of child welfare, or some State board that has to take up those matters with the court; and our answer to that, as I understood it, was that there should be a court. Now Mr. Carstens believes differently and many other people believe differently. And when we came to the question of whether it should be a criminal or a civil court we were clear that it ought to be both; and if we could get that combination in a domestic relations or juvenile court, I do not believe that we ruled out those two.

Mrs. GLENN. But we did consider the specific question, whether it was possible to throw this particular work in the juvenile court, and there were some objections.

Mr. THURSTON. Here in New York both the domestic-relations and the juvenile court are overloaded.

Mrs. MUSSEY. The jurisdiction of the juvenile court differs in different jurisdictions.

Mr. THURSTON. Yes. If these proceedings are to be brought in a juvenile court, it should have both jurisdictions, if possible.

Mrs. MUSSEY. Yes, it really ought to have.

Mr. THURSTON. That was the essential point, as I got it.

Personally—and the same opinion has been expressed by others here—I believe that if the hearing to determine paternity can be brought in a court with civil procedure, we have a very great gain. I believe that most of us who deal with these women and who deal with case work do feel that there is a humanity possible in this informal civil procedure that can not be obtained in the criminal procedure.

And a further thing that I wanted to bring out was that I am not clear at all in regard to Boston. I put it in the form of a question: May we not have the determination of the paternity in a civil court and the prosecution for nonsupport of the child after the man has been adjudged to be the father in a criminal court? One of the principal arguments in Boston for a criminal procedure is that when you have got a judgment you can at once proceed against the father if he doesn't pay.

Now, why can't those be separate? Why can't we have the determination of paternity in one court with one procedure, and the getting after the man who fails to support his child—whether legitimate or a child born out of wedlock—in another court? I never could see why those two processes must necessarily be combined in the same court—a court of criminal jurisdiction.

Miss LEE. Personally I do not see why the action should be brought in one court and immediately transferred to another court to enforce the order. My objections to a civil proceeding are: (1) That it is necessary for the woman to have a lawyer and that it takes so long to decide the case—that is, if the whole proceeding is civil; and (2) when you do get a judgment there is the difficulty of enforcing the order. If a man has no property, you can't collect on the judgment. But in our criminal procedure we have the probation department to enforce the order and collect the payments, and we depend almost entirely upon the earning capacity of the man.

Miss FARMER. I would like to ask Miss Lee whether she would like to have these cases tried in the criminal court or in a special court—a juvenile court or domestic relations court, for instance—to save the mother?

Miss LEE. Yes; I would like a private hearing, and perhaps special sessions; of course, our whole domestic relations session is practically a private session—that is, to all intents and purposes. The hearing is very informal, and a person sitting in the court room would not know what was going on if he was not very near the judge.

Mr. THURSTON. You don't find then, in practice, that the bringing of these cases into the criminal court or under criminal procedure is brutal to the mother?

Miss LEE. No, not the way we carry it on in the domestic relations sessions in Boston.

Miss FARMER. But it is brutal sometimes when carried on in the ordinary way in appealed cases. We have had pretty terrible cases where girls have suffered in that way.

Mr. THURSTON. Perhaps Mr. Hodson could tell us more fully why he hopes to have a civil procedure.

Mr. HODSON. I didn't know I had made that statement. Our law provides for a form of criminal procedure, but it is civil in substance; that is, it requires a preponderance of evidence and not proof beyond reasonable doubt. The proceeding as such is conducted by the county attorney, as we call him. And the objections which have been suggested to the civil process do not apply in Minnesota, so far as the substance of the proceeding itself is concerned.

Now, as to the point of privacy of hearing and the possibility of brutal treatment, I should suppose that the privacy of the matter could be covered by a special statute. In Minnesota the court would be the same, whether it was the civil or the criminal process; that is, the judge would be the same.

With reference to the matter of enforcing the order, if the defendant hasn't any money, you can't get it from him under any process. Under the criminal process, as I understand it, when an order is issued if the defendant fails to pay it he is in contempt of court, and you can promptly call him in and either jail him or get a promise to pay.

In substance, in Minnesota, the procedure is exactly the same. If you bring him into court you bring him in for contempt of court in failing to pay. If he has anything, you can get it; if he hasn't, you can't.

If I understand correctly the position of the Massachusetts people, the form of procedure would not in reality affect the ability to collect; it is just a question as to which way you prefer to do it.

Mr. THURSTON. Do I understand that you can collect in the civil court for contempt of court just as well as in the criminal?

Mr. HODSON. In Minnesota the district court has both civil and criminal jurisdiction. The same judge hears all the cases.

Mr. THURSTON. Well, suppose the court didn't have criminal jurisdiction; could the judge enforce the order? That is the objection that the Boston people make—that you would have to go into another court to collect, provided an order was made upon the father.

Miss FARMER. What case workers have you to follow up cases and collect money?

Mr. HODSON. The children's bureau has a staff, the county child welfare boards have staffs, and it is their duty to follow those cases up.

Mrs. SHEFFIELD. They do the work of the probation officers?

Mr. HODSON. Yes.

Miss FARMER. Most States wouldn't have anything like that.

Mr. THURSTON. In case paternity is established in a civil court the father becomes subject to the law that any father is subject to, to support his child. Suppose he fails to do it. Could that be enforced in the civil court?

Mr. HODSON. I assume, not through the criminal process; it would have to be a criminal court.

Mr. THURSTON. It would be a civil process, but I assume that would be awkward. Now, if the court had both jurisdictions it could do one thing as a civil court and the other as a criminal court; that is what we said in New York we would like to have.

Mr. HODSON. That is effective in Minnesota.

Mr. THURSTON. That is what you have?

Mr. HODSON. Yes.

Mrs. MUSSEY. Mr. Chairman, may I ask if there is a jury trial there or just a judge?

Mr. HODSON. It is a jury trial unless the defendant desires to waive a jury.

Mrs. SHEFFIELD. Have you a domestic relations court?

Mr. HODSON. We have not.

Miss BURTON. In Massachusetts the judge has the right to clear the court room if he wishes. And many of our judges will hear a case in this way. We take cases in the great mill towns and the hearings are perfectly private.

Mr. THURSTON. Will the judges of the criminal courts accept the same kind of evidence that we bring into our juvenile courts? The probation officer has gone out and seen this woman and got at the bottom of the facts. Now if she brings that in and tells the judge beforehand what the facts are, will he go just far enough with the woman and with the case so that he can render a judicial decision without going into all those details himself—the way we do over and over again in our children's courts? Or does he go through his whole criminal court procedure—a verdict of guilty and prosecution and so on?

Miss BURTON. A great many of our sessions are very informal in these cases.

Miss LEE. Yes; I think as a matter of fact the judges do not go quite so closely into the matter of evidence as they do in some other criminal cases. I think it is informal.

Miss HUTCHINS. May I differ with others from Massachusetts? When it comes to our smaller courts we can't do the things that a highly organized court like the Boston court can do. We probably won't be able to do those things until we get a combination of the courts, possibly. We have our juvenile courts—juvenile sessions—

if the case can be brought into that. I think that a number of the judges—and I have talked with quite a number of them—would be very glad to have these sessions practically private, but they are afraid they will be accused of star-chamber proceedings, and therefore the hearings are not practically private. Moreover, I think there is an objection to what you may call the practically private hearing, and I presume that what Miss Lee means is that the defendant and the complainant may go up to the bench and that very few in the court room hear the case tried. I know that that is the case in a small court where the judge is socially minded. But the fact that a girl has appeared in a public court room and been observed by people in that court room has done damage, I think, to many a girl. The story goes around the streets that she has been caught in a certain case; the story that has not been heard has been guessed at and so has been misinterpreted. And I doubt if you can have such a thing as a practically private hearing without some damage being done to the girl.

Mr. THURSTON. I know I am entirely uninformed in the law, but I have dreamed of a time when, if we were going to have these matters inquired into by the public, the case work procedure with reference to the facts that are found out by the most sacred confidence and sympathetic observation would be officially reported to the court; the people brought in if necessary, as they are into a juvenile court and equity court; and the simple fact of paternity made a matter of record. Then the man would become automatically liable for the support of his child just as if he were the legal father. He supports the child or he fails to support it. If he does not support the child, court procedure to enforce his obligation would be available in another court. Now, it seems to me that if we carry this case work ideal through as we might, we might get this establishment of paternity sharply separated from the enforcement of support—a matter of unnecessary court procedure in a very large percentage of cases.

Is there anything further to be said on either side?

Miss LENROOT. In Chicago the Massachusetts law was referred to a number of times, and of course there was no one from Massachusetts to explain the advantages of it. The feeling there, I think, was that there was a very great disadvantage in requiring proof beyond reasonable doubt, that it was impossible to secure proof beyond reasonable doubt in a great many cases. I wonder what the Massachusetts people would reply to that.

Mr. THURSTON. In a criminal court, of course, paternity must be established beyond a reasonable doubt, must it not?

Miss LEE. Yes.

Mr. THURSTON. In a civil court on the preponderance of evidence?

Miss LEE. Yes. I think, as a matter of fact, it comes down to the proof of the girl's story, and it does not require a great deal of corroborative evidence.

Mr. THURSTON. In other words, you have no great difficulty in determining beyond a reasonable doubt who the father is?

Miss LEE. No.

Mrs. BURNHAM. May I ask, do the men often bring other men to testify and throw the case out of court if other men swear that they are guilty?

Miss LEE. Well, not very often. Of course cases have been thrown out of court for this reason. We have had one or two instances when the judge ordered a criminal complaint made against the men who offered such evidence. I heard the other day that a report had gone abroad that it was not wise for a man to bring his friends into court, because they were likely to get into trouble.

RESPONSIBILITY OF THE FATHER AND OF THE MOTHER.

THE FATHER'S RESPONSIBILITY FOR THE CHILD.

ARTHUR W. TOWNE, *Superintendent of the Brooklyn Society for the Prevention of Cruelty to Children.*

The tendency, when we are dealing with the father's responsibility, is to be very jealous, because we have sympathy for only the child and the mother. We feel that the fathers have been evading their responsibility and escaping the stigma far too easily. But we must be careful, lest in our zeal to give certain rights to the child and impose certain obligations upon the father, the supposed boons shall not prove to be boomerangs. As, for example, in the case of the child, it may well be that if we assign the full power to that child of taking the name of the father, it may prove a very serious handicap and a detriment to the child in after life.

Now there are two main ways in which legal obligation can be imposed upon fathers. One is by legislation, the other is by court decisions—court decrees. There are two ways in which the legislature can do this. The legislature can make certain duties obligatory upon fathers, without prescribing any penalty which shall be visited upon them in case they fail to live up to those obligations. It may be possible for a civil suit to be instituted, as for money damages, in such wise that some civil process can be invoked—like injunction proceedings or something of that kind—to bring the father to task, though no penalty of a criminal nature is visited.

The other kind of case is where a penalty, fine, or imprisonment, or whatever it may be, is prescribed right in the law.

Now on the subject of illegitimacy. The father's responsibility is so very complicated and involved that I think we need to examine with a great deal of minutiæ the different problems that come up. But we can not well do that this morning, so I am not going on to discriminate very much between legislative remedies and social remedies. I think that the more fundamental and larger duties of the fathers should be written into the statute, and that, in the application to individual cases, we should leave a good deal of leeway and latitude to the courts to exercise their judicial discretion in the light of such social case work as may be available to them.

Now take the duty of support. I believe that the duties of a father whose paternity has been duly acknowledged or established at law should approximate those of a father of a child born in wedlock. This duty of support is one of the few duties which has already been placed upon the father through the legislation of practically all the States. The duty of support should be applied by courts in the

light of all the circumstances of the individual case—the father's financial condition, the needs of the child, and the relative resources and obligations of the mother. There may be some cases where it would be found best not to demand support of the father. Mr. Hodson last evening mentioned the case of a young boy dealt with as a juvenile delinquent rather than under the old so-called bastardy order. Of course, a minor is supposed not to have property and not to be subject to contracts and debts; but I believe the law should authorize the courts, in case of necessity, to collect against a minor who has become the father of a child, just as a minor who marries is held responsible for the support of his child.

Then there are incompetent fathers. There are cases where the child's birth has ensued upon a particularly vicious assault; where it has resulted from an incestuous relationship; or where the man is a villain, far beneath the social standing and character of the mother, and it might set up some very serious psychopathic trouble, or would, at least, be highly repugnant to her to accept money from him for the support of her child. That, again, was intimated by one of the speakers yesterday.

And then there is the very complex situation where the father has a family of his own. It would be wrong to demand support of him if it were going to jeopardize the welfare of his children by his legal wife, or bring about an estrangement between him and his wife—which might be the case if she knew that the man were supporting this child.

On the other hand, we must recognize the fact that the mother may be married. We are too apt to say that we must have sympathy for these fathers because they may be married and have children of their own. But that same situation may obtain with respect to the mother—she may already be married to a man who went overseas in the war and was gone more than a year when she brought an illegitimate child into the world. Or it may be that right after the birth of the child she marries and bears legitimate children. Therefore a good deal of adjustment that can best be applied by the court looking into the individual case must be made in these affairs—as Mr. Knight said last night in a very fine and effective way—rather than to deal with them en masse through legislation which admits of no exception.

I believe that, as in the case of the married father, there should be no limit to the amount of support until such time as the child becomes capable of self-support. The father should, of course, be subject to the same nonsupport process and desertion prosecution as is the father of children born in wedlock, except that, unless it is thus written in the statute, the desertion laws may not be applicable if the father does not have the child in his physical custody.

There are certain other things affecting the property side of the situation that need to be taken care of. The so-called legal father is liable for the debts of his child, he can bring action for recovery of damages for injury to his child, and he can collect the wages of his child. Now exceptions need to be made in cases where the child is not living in the custody of the father. I believe that the inheritance rights should be substantially the same as those of a child born in wedlock; but, as has been pointed out by different speakers, that is giving rather a mighty gift, perhaps, to these children, because a father can disinherit even a child born in wedlock. That might bring about rather ugly situations at times. The mother of an illegitimate child—I do not like this term "illegitimate" at all; I think that we should call all these children just children and place the stamp of illegitimacy on the parent, but for the sake of brevity I am using the term this morning. The illegitimate child's mother may bring a partition suit to divide the inheritance, where a man has during his life recognized his illegitimate children. I think that the court should exercise a restraint in such circumstances, and permission should be required before any such suit could be instituted.

Now, turning to one of the other main subjects—the custody of the child. Of course we recognize and impose upon the mother the duty of providing for the custody of the child—that is, of designating his place of residence and providing shelter for him. But we can not demand, even in the case of a legitimate child, that the child shall live in the mother's own home or in the father's own home. Any of us fathers can board our children if we wish to in a boarding home. And so in the case of an illegitimate child, it is impossible to put into the laws, as Prof. Freund has said, a provision that the child shall have a right to live in the father's home. They put that in the law of North Dakota, but I think several things are in the law which may not be enforceable.

Yet situations may arise where it is better for the child to live in the father's home rather than in the home of the mother. It may be that the father is a far superior man in character and has better means and will provide for the education of the child if he can take it into his own home. And yet the mother may oppose that. We had a case in the Brooklyn Children's Court this morning where the father is very anxious to have the custody of the child. He has kidnaped the child from Massachusetts three times, and yet the mother will not let him have the child. She has refused to marry him. She has her own theories of free love, upon which she has written a book which the laws of this country do not allow her to publish, and she will not let him have the child. Now probably the child would be better off if he did take it. I think a case like that should be taken before the court, and let the court decide upon the basis of the welfare of the child.

On the other hand, it should be possible in some cases to bring an action in court to try to force the father to take the child and provide its shelter somewhere, not necessarily in his own home; but that matter should be very carefully guarded to prevent blackmail. Permission of the court should be secured in advance before anything of that kind should be done.

Of course, in the case of a child born in wedlock, there are certain other obligations resting upon the parent. The parent can direct the education of the child and control its religious culture, can apprentice the child, can give or refuse consent for marriage or adoption, shall have notice of actions in children's courts, shall have the right to emancipate the child, and do various things of that kind.

Now, how far should the same obligations and the same rights be vested in the fathers? There is room there for some nice thinking. All those things need to be worked out.

Now, as regards the name. I believe that it is a mistake to expect much benefit from conferring the right upon a child to take the name of its father. Of course, as a matter of fact, the child can do that anyway. Any of us can change our names. Perhaps there are certain restrictions as to business purposes, but we can take any name. As a matter of fact, the mothers of many illegitimate children do take other names. They move to another place, and Miss Jones becomes Mrs. Brown, or she takes the name of the father of the child. Many so-called common-law marriages are camouflaged in that way. But I think all this ought to be brought within the purview of our illegitimacy laws. The right to a name, it seems to me, should be controlled just as far as possible by the courts.

SHALL THE FATHER HAVE THE SAME RESPONSIBILITY AS THOUGH THE CHILD WERE BORN IN WEDLOCK?

ELIZABETH A. LEE, *Probation Officer of the Central Municipal Court of Boston.*

The law in general recognizes the responsibility of both parents, death or disability of one leaving the entire responsibility to the other, and the same rule should apply to children born out of wedlock. But Massachusetts defines this legal liability in the case of such children to be a financial one only. In the absence of legislation which gives the father rights as well as obligations, our discussion is necessarily confined to the financial responsibility. But there is a responsibility of much greater importance—one that stands foremost in the mind of the court and of everyone dealing with a case—the moral responsibility of marriage. In no other way is it possible to make complete reparation to both the mother and the child.

To determine the extent of the financial liability—to fix a "reasonable" amount—we must consider not only the father's earning capacity but must look also to other circumstances of the case. Is he a young boy? Is he a single man with no other responsibilities? Has

he a wife and family? What is the mother's earning capacity? Is she married or single? These are important factors in making a fair adjustment.

Different States grant sums varying greatly in amount from a $10 fine and a single payment of $50 to $200 for the first year and $150 annually for the next 17 years. In 1723 the county court of New Haven ordered 2 shillings a week for a year—a marked contrast to the order of from $2 to $8 a week, with an average of $3.50, now ordered in our court.

On the whole, the provisions in favor of the child are plainly inadequate, and standards of support are measured by standards of poor relief. To obtain the best results the sum should be left to the discretion of the court and be subject from time to time to revision.

Application of General Nonsupport and Desertion Laws.

The act of 1913 was a radical departure from the procedure which existed in Massachusetts from early colonial times. It transformed the action from a civil into a criminal one and assimilated the procedure with that under the uniform desertion act of 1911. The defendant thereby became subject to all the penalties and orders for the support and maintenance of minor children.

The 1913 act makes the nonsupport of an illegitimate child a distinct and continuing offense, expressly includes such child in the abandonment act, and makes indictment possible. In fact, the law goes further and confers upon the court power concurrent with the probate, superior, and juvenile courts to "make such order as is expedient for the care and custody of the child."

We have found no difficulties in the practical working of the law in conformity to our nonsupport and desertion laws.

Continuing Jurisdiction of the Court.

The law of 1913 is silent as to the term of probation and it is doubtful if cases can be continued in court during minority, for under the uniform desertion act a two-year probation is the limit.

We are carrying cases of 1915, 1916, and 1917, continued by consent of the defendant upon the approval of the court, and until the point has been judicially decided we shall continue to hold doubtful cases on probation.

Even after the case is dismissed, at the end of the probationary period, the father may voluntarily pay through the probation officer. This, in effect, is continuing the jurisdiction of the court and a lapse in payments furnishes evidence for a new complaint under section 7.

Probation.

The old law failed to accomplish its purpose of securing support for illegitimate children and the probation system generally adopted under the uniform desertion act of 1911 was intended to become the most valuable feature of the new law.

It has turned out to be the simplest, surest, and most expeditious method of enforcing the order of the court and involves the least expense to the mother.

The "personal pressure" that Prof. Freund mentions is brought to bear not only upon the father but upon the mother and child as well; for probation gives the father a friend, the mother a counselor, and the child a guardian.

From an economic point of view probation pays. A total of $6,275 was paid on the 16 cases disposed of by filing a certificate of adequate provision, an average of $392 for each case. This amount purported to provide adequate support during the life of the child, whether he lived 1 year or 16 years.

Counting 64 probation cases, we have collected as follows: One sum of $1,100, one of $900, one of $600–$700, five of $500–$600, seven of $400–$500, thirteen of $300–$400, eleven of $200–$300, twenty-five of $100–$200. The larger amounts were received from early cases and the smaller sums from recent ones.

A few individuals may have benefited by lump sums, but in the majority of cases more money has already been collected than would have been offered as a settlement and the money is still coming in.

Other Methods of Enforcing Payments.

For those States which proceed civilly, filing a bond with surety to cover the court order is an effective method, payments to be made to a person as directed by the court. Upon default of the defendant an execution may issue as often as the money becomes payable, against the goods and chattels of the defendant and his surety.

In Iowa filing the complaint places a lien upon the real property of the accused, followed by attachment without bond; if found guilty he is charged to maintain as the court may order. But there can be no commitment, because it is unconstitutional to imprison for debt.

The chief objection against a bond is the defendant's inability to secure one, and an attachment is of no value if the defendant is without property.

But under our criminal procedure neglect or refusal makes the defendant liable to all the penalties of the act of 1911, including imprisonment with an order of 50 cents a day. This is an extreme measure rarely used. In fact, we have surrendered and sentenced only four since 1913.

Lump-Sum Payments.

There is no serious objection to lump-sum payments, provided such settlements would not be a bar to further action. This settlement should not be considered a penalty for the man nor a compensation for the mother, but for the support of the child; the money should always be paid to some responsible person as trustee, to be used solely for the child—in the event of his death the balance to be returned to the father.

On the whole, the act of 1913 is working out exceedingly well, but the section providing for "adequate provision" has turned out to be a big flaw in the act. Just what constitutes adequate provision is variously interpreted by different justices; the amount usually certified as adequate is grossly inadequate, using as a basis the average weekly payments commonly ordered and intended to continue during minority. This section was intended to apply to the unusual case—when the child has been adopted, or the mother has married a man willing and able to assume support; or if a considerable sum—several thousand dollars—has been deposited for the support of the child. But when the law first became operative the full purpose was not generally understood, and many justices permitted, and are still permitting, the small settlements customary under the old law.

But the Boston Municipal Court may well be emulated, for out of 532 cases since the new law became effective only 16 were settled in the municipal court by filing a certificate of adequate provision; 68 appealed, and many of these were settled in the superior court in this way.

These 16 cases were disposed as follows:

No.	Year.	Amount.	To whom paid.	Remarks.
1	1913	$200	Probation officer	Child in infant asylum.
3	1914	200	do	Child with mother.
	1914	(1)		No information—settled "quietly."
	1914	164	Probation officer	Child in infant asylum.
2	1915	345	Probation officer, $175 Mother, $170	Child adopted.
	1915	526	Probation officer	Child adopted by mother's husband.
4	1916	(2)	Asylum	Child in infant asylum.
	1916	400	Attorney	Child adopted.
	1916	400	Probation officer	Child with mother, who applied again.
	1916	265	Infant asylum	Child in infant asylum.
3	1917	300	Complainant	Child with mother, who applied again.
	1917	550	Attorney	Do.
	1917	(2)	Infant asylum	Child in infant asylum.
2	1918	1,000	Trustees for children	Child a ward of city.
	1918	875	Probation officer	Mother sent to Scotland with baby.
1	1919	[3] 450		Made before child born. Mother applied at maternity home with only $150 left, and child not born.

[1] No amount. [2] No amount (probably $200). [3] Promise to pay attorney.

Whenever a lump-sum is permitted, unless the unusual circumstances previously referred to exist, the case should be dismissed instead of filing the certificate of adequate support which forever bars

further action even if the child becomes a public charge. A dismissal leaves the matter open for a new complaint, if necessary.

Settlements Out of Court.

The chief reason for taking the case to court is to fix the civil responsibility of support.

If the bastardy legislation of a State provides that the father has only a civil obligation toward the mother, the two might well settle the case privately, especially where under the law the mother has the exclusive right to complain, though it is even then doubtful if the mother is the only party in interest.

Where poor law authorities or where "anyone" may complain and the procedure is criminal, as in Massachusetts, it seems clear that the case ought not to be so settled because public offenses should not be subject to private agreement. Many private organizations prefer settlements out of court, and they have strong arguments in favor of so doing. Of course, such a settlement has no legal value, except that it could be used as evidence, and if need arose a case could be instituted afterwards.

Inheritance Rights.

The most important statutory change in the common law is the right of inheritance, for the common law did not recognize the child's right to inherit, even from the mother. If the main purpose of the law is to relieve the State of its burden of support, and the principles of joint duty of support have been recognized as early as 1673, are we not advancing one step toward complete support when we provide that the child may inherit from the father as well as from the mother? Usually the death of the father ends liability, but the civil status created by adjudication ought to carry with it a right to inherit, to insure the benefit of support to the greatest possible extent.

As early as 1576 England recognized the duty of the father to support his illegitimate child, and the workmen's compensation act of 1906 gives benefit to illegitimate dependents, but nothing has been done to alter the civil status.

We recognize the relationship between the illegitimate child and the father as to degrees within which marriage is permitted; against marriages prohibited by consanguinity there is a natural and inherent reason, but the prohibition on account of affinity is based solely upon property rights.

Inheritance rights ought to be limited to cases in which paternity has been established by court proceedings: by legitimation—either by acknowledgment or the marriage of father and mother after acknowledgment; or by adoption. In Massachusetts, these rights are protected by adoption, or by marriage of parents to each other.

To carry out the full purpose of the law, the inheritance rights should be reciprocal, and expressly so stated.

Right to Father's Name.

The right to a name does not create any legal rights. And merely bearing the name of the father surely would not improve the social status of the child, if he remained in the custody of the mother—the right of custody is generally recognized as belonging to the mother. If one of the main objects of proposed legislation is to protect the child from stigma, he should bear the father's name only if a member of the father's household, either by adoption or legitimation.

COLLECTIONS FOR SUPPORT BY THE PHILADELPHIA MUNICIPAL COURT.

LEON STERN, *Director of the Educational Department of the Philadelphia Municipal Court.*

I have some charts which may be interesting. These studies were made in the department of accounts of the municipal court. All collections in the municipal court in Philadelphia for the domestic relations or juvenile cases or for an order for illegitimate children are paid to the department of accounts, and not paid directly to the mother, and the department of accounts turns the money over to the mother.

In searching that particular department we discovered some very interesting data. In 1914, for instance, with a total of 120 cases, in 50 per cent of these a weekly order was made. In 1918 there were 375 cases, in 103 of which weekly orders were made. Of course, this includes court settlement, payment for confinement expenses, and excess demands.

The most frequent order in the earlier years—not the average order but the most frequent order made—was $1.50 a week. In these latter years it has been $2. Our procedure is a criminal procedure, and the sentence is a court sentence. That means that orders can not be changed. Of course, that is unfortunate, because after a child grows older the order is still the same. The order made for a child for $2 is still $2 when the child is 16 years of age.

Perhaps the most interesting data are those concerning the collection of the weekly court orders. The total collected was almost $13,000 for the period from 1914 to 1919—the whole period studied—for 1,563 cases. In that period almost $4,000,000 was collected in all cases from the domestic relations and the juvenile court. And in this unmarried mothers' division, $12,480 was collected in weekly orders alone.

The amount collected was on an average 60 per cent of the total amount ordered. You must remember this was not a study from the probation, but from the accountancy end. That is, we tried to discover how efficiently the bookkeeping showed that the accounts were collected. In going over the thing again we found that some

of these children had died, in some instances the men had died, in other instances the men were out of the jurisdiction and the study was not complete enough. In a complete all-around study of both the social records and the accounts, I know that we would get around 80 per cent.

But the point I want to make with these figures is that with the collection system, beginning with criminal procedure but based on the action of the probation staff attached to the domestic relations division, we have been able to collect those orders without recourse to criminal actions of any sort. This probation staff of the domestic relations division collects the orders although the case is brought in the criminal division of the court originally; so that perhaps the point may be raised that it might be perfectly possible to make efficient collections with the probation staff, if the orders were made either in the civil court or in the domestic relations court—that is, the order need not necessarily be made as a criminal order. As far as collections are concerned we in Philadelphia have not often had recourse to criminal action; our collections have been made just as the collections of the domestic relations division have been made—by the use of the probation staff and the staff of the department of delinquent accounts.

THE MOTHER'S RESPONSIBILITY FOR THE CARE OF THE CHILD.

L. H. PUTNAM, *Executive Secretary of the West Virginia State Board of Children's Guardians*

Let me say that I do not class as an expert. I have been interested in a practical way in the subject, and instead of reading a paper I will make just a few remarks.

So much has been said directly and indirectly regarding the mother's responsibility toward the child that I am going to make but two points: And one is that touched upon yesterday—that in the majority of cases the child receiving breast nursing has a better chance, has a square chance, at least, if the mother is physically and morally fit. If not, there is not a square chance. And so can not we agree that the mother should be required to care for the child, and not only required, but, if necessary, be provided, by the so-called mothers' pension law, with the funds needed to maintain herself during the first six or seven months of the child's life?

The second point that I have to make is that by keeping the mother and child together, the child in a sense is a protector of the mother in many cases—I suppose not in all but at least in many cases. And, also, is not the child a barrier between the mother and further wrongdoing?

We have been considering the facts here, but I have heard very little about the causes. Until recently, the age of consent in the State of Georgia was 10 years. In the State of Florida, the age of

consent was 12. Is it not necessary for us to get back to the causes of the effects that we are considering here? Is it too idle to expect, at least, that part of the millennium shall be brought about through reform? Can we not say that at least 50 per cent—I am sure that I am right in this—of the children born out of wedlock near the central part of the country are babies born of girls between 14 and 18 years of age? In the rural sections, the men are not afraid to attack such a girl, due to the fact that they can always get two or three other men to come into court. I say always—almost always—they can get two or three other men to come into court and say that they were equally guilty, and that exempts them under the law.

Now just let me say this: We have been told that from the standpoint of terminology we ought not to change the word, the stigma, the brand that is placed upon these children. I don't care what you call them, natural children or any other classification, but can't we get away from the word "bastard"? Can't we get away from the word "illegitimate"? Really, is there such a thing on God's green earth as an illegitimate child? Isn't it the father and isn't it the mother who are illegitimate, and not the child?

And then, just this other point: These poor mothers that we try to make so responsible receive just about as little sympathy and consideration and Christian attention as it is possible to give them. We really sneer at them and scorn them more than we do the common woman who sells herself and has not been mother enough to bring her baby into the world. And can't we help—isn't it possible for social workers to help to so develop public opinion that there will be a more Christian attitude? A mother of the child born out of wedlock in North Carolina was put out of six homes in five weeks; and when I went to the fifth home and asked, "Why are you asking this girl to leave?" The woman said, "Because my neighbors and my church people are condemning me for keeping that girl here." And then I asked the pastor to let me talk in church, to talk to his people, and I did. This girl is to-day a married woman in the city of ——. She is a leader in the choir. Why? Because the members of one church were brought to a realization of the fact that they themselves were not guiltless; that Christ meant it when he said: "Those without sin"—the literal translation is "of the same kind."

STATE SUPERVISION.

PUBLIC SUPERVISION AND GUARDIANSHIP.

HOMER FOLKS, *Secretary of the New York State Charities Aid Association.*

The question is, shall the State assume supervision and protection of children born out of wedlock? I should like to begin by considering definitions. I recall that several times at Albany I have objected to the word "supervision," as proposed to be used in statutes, on the ground that it was a bad word because no two people would agree on what it meant; that, on the one hand, it obviously meant more than its literal derivation would suggest—that is, looking over the situation; an inspection or knowledge of what was taking place; that, on the other hand, it stopped short of control; and that where it landed between those two, no two people would quite agree. I think those objections hold in some degree to the present suggestion.

But suppose we assume that it means finding out about the facts, together with the authority to intervene if the facts are not what they ought to be. Granted the power to intervene, there is of course no legal obstacle against intervening whenever you like. That is the underlying difficulty with the word and with the thought of supervision.

But accepting that, then for the moment—and only for a moment—I want to assume also that the word "State" is used as equivalent to public governmental authority, and also, for a moment, I should like to stretch it to include any organized social activity.

The question then is, "Shall the community, expressing itself through the State or governmental bodies, or expressing itself through voluntarily organized social-service agencies, assume supervision or protection of children born out of wedlock?"

In substance, my reaction to that would be: It already has. The supervision or protection of children, born in or out of wedlock, is obviously and has long been a function and a duty of the State, acting directly through local authorities, and also acting by permission, so to speak, and by consent through organized voluntary activities. The question really is: Can we set up and interpose a more efficient operation of those State agencies and voluntary agencies, through which a certain amount of oversight and protection of children, born in or out of wedlock, may be secured. As a practical matter, I should say: "Very obviously and very clearly: We should do just that in this State, at least, rather than look to legislation as a first necessity, or as a matter of primary importance."

I should like to ask this conference: Is not the first move in order the speeding up and the refinement and the extension of the existing agencies which are supposed to deal with and protect children, both those born in wedlock and those born out of wedlock?

I find myself, as I turn it over in my mind, a little more indisposed than I was at one time in any way to favor the setting up of separate machinery or separate precedents or even separate laws dealing with the illegitimate child as such. I might, if I were more deeply acquainted with the subject, swing back, but the trend of my mind at the present time is the other way.

Illegitimate children, so to speak, do not die of illegitimacy. They die of lack of food, lack of care, of ignorance, and of physical, mental, and moral ills. Now, of course, any one of these children may, and a large number of them do, die; two or three times as many as usually die among legitimate children. I suspect that we might find, however, at least a dozen other groups of children, not illegitimate, among whom the percentage might be equally high. If we were to investigate, for instance, the babies whose fathers are either feeble-minded or insane, I have no doubt that we would find that the percentage of mortality among them is a good deal higher than among some others; perhaps as high as among the illegitimate—I don't know. And yet, we should not think of setting up a separate procedure or a separate statute and still less separate machinery for dealing with the children whose fathers are insane or feeble-minded. I suspect that if we could see all the children whose fathers are earning less than 50 per cent of what might be considered a living wage, we should find that their chances are hazardous, perhaps quite as hazardous as those of the illegitimate children; but we should not think of setting those apart with separate machinery or a separate statute or a separate procedure or a separate ideal and purpose.

Is not our immediately practicable procedure rather that of checking up all the existing machinery whereby we aim to exercise some supervision over childhood and to protect it from these actual evils of lack of food, ignorance, lack of care, and so on?

We have gone, in our thought at least, quite a little way toward actually exercising a certain amount of protection and supervision over all children at the very early age at which the gravest dangers to the illegitimate child arise. We have already established, through voluntary agencies or through public authorities, the principle, at least, of prenatal care for all expectant mothers of whom we can learn. We have further established, in thought at least, the principle of visiting all newly born babies, or practically all—all of those where there is any presumption that there might be something needed.

I think that this is an ideal toward which we should all press very rapidly, and that it is practicable for operation in the very near

future. I think that there are places in the world where this is approximately realized at the present time.

The older idea, with which we were familiar 20 years ago, rather assumes that everybody can look after his own child, and so the old way was to hold out a threatening hand and say, in effect: "You can take good care of your child if you want to. If you don't, we will take it away from you and punish you." The newer idea of the health official and nurse is: "Of course you want to take good care of the child. If you are short of anything let us help you out." That I think is universally the coming idea of community service toward every child that is born.

Of course, the health authorities, the visiting nurse, and the community nurse at present do not know a lot of other things that it is desirable to know about social service, but they are going to. I am fully persuaded that this idea of having one kind of person to visit the family where there is sickness and another person to visit the same family where there is poverty is not going to persist very long, and that at least public-health nursing and social service care are very soon going to be one and the same thing. There will be one school where we shall learn both arts; and the person so trained will apply all kinds of service and will extend any community helpfulness that may be needed. I consider the present separation a temporary and passing thing.

However, at the present time, the illegitimate child offers a great many special problems. The visiting nurse, being the only person who comes anywhere near seeing the great majority of the children, or who conceivably will in the very near future come anywhere near seeing them, could know and ought to know all about other organized activities and agencies, State and local and county and city and private and religious, of all sorts and descriptions; and she should be able, as she is now able to some fairly considerable degree, to call into activity the particular agency, society, official, or authority which can help to provide the thing that is required for the particular child who needs something, whether that child be born in wedlock or whether it be born out of wedlock.

I like the idea of the reporting of cases of expectant mothers who will come to institutions of one kind or another, as set forth by Mr. Hodson. I was glad to see that he included, however, all expectant mothers, whether married or otherwise. I think I should have a hesitancy in asking anybody to indicate that they thought a prospective child was to be an illegitimate child. Instinctively I should prefer that the record said that the child's mother was so and so, who lived in such a place, and that nothing was known about the father. That would raise a fair presumption that some aid or advice or counsel was needed.

The health authorities now get a good many birth registration blanks like that. They don't get them all, to be sure. In regard to those they do get I know of no reason why the health department should not stress the visitation of the babies whose births are reported in a way to indicate the probability of their being illegitimate. If they do not get around to visit all babies they might very properly, without advertising it or having any separate particular machinery, visit such babies, recognizing that here is a group which presumably needs special attention.

It would also be a very healthy thing if we haled into court a few of the doctors and midwives who do not fill out the birth certificates. We do not now get all birth registrations, and we get a smaller percentage of those of the illegitimate children. Very good. The law is all right; let us go after the doctors and fine a few; let us at least serve papers on them, and get them within the range of the law; they are violators of the law. The theory is all right; the machinery is well devised. When it breaks down, why not improve it rather than try to substitute new machinery?

Shall guardianship include only children who are neglected or dependent? If we use guardianship in the strict sense of taking the place of a parent, I should say, Yes. In other words, again, I should be disposed personally to say, apply the guardianship in the full legal sense when you would do it if the mother were married, and not otherwise.

As to the functions of State, county, or city departments in regard to such cases, I should suppose we could not lay down any very rigid rule, and perhaps the principle that we might think of would be to follow in regard to these children the same general lines of administration and functioning that we have adopted in a given State for the care of other children. For instance, in New York State, generally speaking, we care for our children through private agencies, but only on commitment by public authorities or on the judgment of a court that a child needs to be supported by the public. I should suppose that it was wise to do the same in New York State at this time in regard to the children of unmarried mothers. In a State where the prevailing system was a State system for the care of children, naturally it would be the State that would exercise the administrative care over such children; and, on the other hand, in those States, few in number, where the county ordinarily takes care of the needy children, it would be the county authorities that would look after those children also.

JAMES E. FEE, *Director of the Division of Child Guardianship, Massachusetts Department of Public Welfare.*

An experience of 13 years in a position that furnishes opportunity for observation of the problem of illegitimacy leaves me with the

firm impression that the traditional harsh attitude toward the unmarried mother and her child is sensibly moderating. To my mind this is the process by which a strong public sentiment is created—a sentiment that eventually will produce such law and procedure as will adequately care for the situation. Because I deprecate the piling up of statutory law in advance of a forming public sentiment on so delicate a matter (involving centuries of strong, even though misguided, feeling toward the mother and child involved in this situation), I do not favor State guardianship or supervision of the illegitimate child as a matter of routine practice. To me this would cause harm by identifying the class in the community before public opinion had formulated that desirable degree of toleration and sympathy which now appears to be steadily growing. No consideration of the desirability of accumulating statistics to reveal the magnitude of the problem would have weight with me as an argument in favor of generally applied State guardianship.

I am aware that there is a body of opinion among social workers opposed to this position, though apparently there is wide divergence as to the degree of intervention desired by those who advocate State guardianship or supervision.

Naturally I am most familiar with the situation in my own State, and it is germane to the discussion to recite the legal developments in Massachusetts which have unquestionably shown a growing interest in the problem.

Legislation passed in 1889 (ch. 83, sec. 17) requires notice to the State board of charity, now the department of public welfare, of certain facts regarding an illegitimate child, provided that child is taken for board or adoption. Another provision of this statute gives authority to the same agency to inquire into the child's parentage, and, if the child appears to be neglected or abused, to remove him if necessary to preserve his life. When such removal is effected his custody is in the department of public welfare.

A law enacted in 1892 (Revised Laws, ch. 83, sec. 13) authorizes the mother of an illegitimate child to give him up to the department of public welfare for adoption, her surrender operating as a consent to a subsequent adoption. This statute provides supervision and control—both, however, being dependent upon the consent of the mother—and shows that State supervision of the illegitimate child is not a new thought in Massachusetts.

The machinery whereby illegitimate children can be taken over in Massachusetts has existed for many years and is not based upon illegitimacy alone but must be accompanied by some other factor—such as dependency or neglect or the application and consent of the mother.

The tendency of legislation in Massachusetts is further indicated by chapter 53, Acts of 1915, which requires that notice of a petition for the adoption of a foundling be given the department of public welfare, indicating that the Commonwealth is a party to the welfare of the child and is expected to protect his interests.

Another step emphasizing the tendency toward State control of illegitimate children is contained in the new law in relation to bastardy (ch. 563, acts of 1913). The court hearing the case, after adjudication has been made, has power to dispose of the custody of the child, and his order in this respect is binding on all persons. The court may in such a case order commitment to the department of public welfare or elsewhere, but disposition is in any event in the hands of a public agency.

Beginning in 1910 the licensing and supervision of lying-in hospitals has been in the hands of the department of public welfare (ch. 569, acts 1910), a recognition of the fact that the Commonwealth is interested in the disposal of infants likely to become public charges.

The natural right of the mother to the care, custody, and control of her child would seem to have legal sanction, since she can not be deprived of it without her consent or by legal action involving neglect or nonsupport. In my opinion it would be a denial of the equal protection of the laws—a right guaranteed by the Constitution—to discriminate against illegitimate children by reason of their birth and compel them to become State wards for this reason alone.

Granting that a measure providing ipso facto State guardianship be constitutional, what would be the practical effect? An interesting study of the situation in Boston was made in 1913 by the Boston Conference on Illegitimacy. It appeared that the city registry of births reported 858 illegitimate births in that year. It also appeared that 282 mothers of illegitimate children had been registered at the Confidential Exchange in the same period. Roughly, about one-third of the total number had sought assistance, personally or through some representative. What became of the remainder? In a community like Boston, where child welfare in nearly every aspect is the subject of close supervision by many agencies, it is fair to assume that there is little abuse or neglect of children outside the individuals registered in the Confidential Exchange. What then would be the result of further State supervision of the illegitimate child except forcibly to set aside as a class in the community a body of unmarried mothers outnumbering two to one those who are known to agencies as applicants for relief?

How consistent would be such a policy with the growing practice among agencies to endeavor to keep the normal mother and her child together for the protection and best interest of both? If the latter is a sound policy—and in spite of some failures experience leads me to

believe it is—what becomes of it if the State steps into each situation and controls it? In my opinion, many mothers will give up the struggle and take the easier course. Does the actual presence and care of the child act as an admonition and deterrent to the normal mother? If so, why should she not be encouraged in caring for her child.

Some contend that there should be a dual guardianship, the mother and the State. That condition prevails to-day. The State is the potential guardian of every child, either legitimate or born out of wedlock, a right which it exercises whenever the necessities of the situation demand its intervention. It seems to me that the burden of proof is upon those who seek to go further on the road toward governmental control.

I am convinced, however, that there should be better procedure in relation to adoptions. Uncontested adoptions are prone to be purely routine legal processes, without apparent social significance to the courts and attorneys employed. Because of the failure to regard the importance of aspects other than legal, adoptions little short of social crimes are too frequently consummated. Every court having power to grant adoption decrees should by law be required to refer the petitions to the appropriate State agency for social investigation and report before taking final action. I do not say this in a spirit of criticism of the court, but suggest it as a modern development of the wider vision of the social significance of what has heretofore been largely a purely legal matter.

At the risk of being considered platitudinous and tiresome, I would suggest also that the problem of illegitimacy would be a burden comparatively easy to bear if State supervision, with guardianship or control involving institutional care and beginning at an early age, were provided for the feeble-minded. I need not, I know, argue this proposition here.

Finally, with the feeble-minded eliminated, less attention to the social and economic phases of illegitimacy would be necessary and more emphasis could be placed upon the moral aspects. Concentration on measures to strengthen family ties, to center interest in the home, to provide wholesome recreation, to revive respect for authority, to inquire whether morality in the mass can sustain itself without religion—these might help to get at the disease itself instead of attempting to deal only with its outward symptoms.

PERSONNEL OF THE RESOLUTIONS COMMITTEE.

Mrs. ADA ELIOT SHEFFIELD, *Boston, Mass., Chairman.*

Edwin J. Cooley, New York City.
Rev. Robert F. Keegan, New York City.
L. H. Putnam, Charleston, W. Va.
Mrs. Amey Eaton Watson, Philadelphia, Pa.

OUTLINE FOR DISCUSSIONS OF STANDARDS OF LEGISLATION FOR THE PROTECTION OF CHILDREN BORN OUT OF WEDLOCK

[The following outline was prepared by the Children's Bureau in cooperation with the Inter-City Conference on Illegitimacy. About 20 local groups in various cities used it as a basis for discussion at a series of weekly or monthly meetings. Thirteen of the local conferences submitted reports of their conclusions, summaries of which follow this outline.]

1. Birth registration.

Methods of making records complete and accurate.—(*a*) Should information given by the mother relative to the putative father be recorded, or should the father's name be recorded only after a court adjudication or an admission in writing by the father? (*b*) Should the mother be required to report the name of the father? If so, should this compulsion, as in the Norwegian law, be accompanied by penalty for failure of the mother to give this information?

Methods of keeping birth records confidential.—(*c*) Should the record be confidential, except for such legitimate reference as may be approved by the authorities? (*d*) How should the child be protected in the case of transcripts of his birth record for school enrollment, working papers, and similar purposes?

2. Establishment of paternity.

(*a*) Would it be desirable to devise a way by which the mother and the father of every child born out of wedlock could be heard by some informal court procedure, for the purpose of establishing paternity? How could this be effected? (*b*) If it is not desirable to have action brought in all cases, in what types of cases should it be brought and in what cases withheld? (*c*) Who should institute the proceedings? (*d*) Should the proceedings be civil or criminal? In what type of court should they be brought? (*e*) How may a mother be protected from unnecessary publicity and humiliation during the hearing? (*f*) Should there be any limitation on the period during which action may be brought to establish paternity? (*g*) What provision should be made to apprehend absconding fathers?

3. Father's responsibility for support of child.

(*a*) Should the father of a child born out of wedlock have the same responsibility for the child's support and education as though the child were born in wedlock? Should this be accomplished by making him liable to the general nonsupport and desertion law? (*b*) Should the court have continuing jurisdiction during the minority of the child, both in regard to custody and support, with power to

revise its orders as changing conditions may necessitate, or should a definite order be placed for a stated period? (*c*) Is probation accompanied by an order for periodic payments usually the best method for securing regular contributions from the father? (*d*) What other methods of enforcing payment of support are available (fines, sentence to house of correction, etc.), and when should they be used? (*e*) Should the court have power to accept lump-sum payment in full of a support order or to accept cash payment in lieu of an order for support, except upon presentation of evidence that adequate provision has been made for the care of the child until he reaches the age limit set by the law for the father's liability for support? (*f*) Should the law forbid private settlements out of court?

4. Inheritance rights; name.

(*a*) Should the same inheritance rights in respect to the father and the mother be given as in the case of children born in wedlock? Upon what evidence should inheritance depend? (*b*) Should the law give the child a right to his father's name? (*c*) Is it desirable to require a child to take the father's name when he is in the custody of the mother?

5. Care by the mother.

(*a*) Should the mother be required to keep the child during the nursing period (as under Maryland and North Carolina laws)? For how long? By what means should such a provision be enforced? (*b*) What will be necessary in the way of providing assistance for the mother so that she may comply with a law requiring her to keep her child? (*c*) Should mothers' pension laws and workmen's compensation acts be made applicable to children born out of wedlock?

6. Surrender of child.

Should the parents of a child born out of wedlock be permitted to surrender the child for adoption, or to any agency or person outside their own family, without the consent of a court of competent jurisdiction or of an authorized State agency? Which is preferable, a court or a State agency?

7. State supervision.

(*a*) Should the State assume supervision and protection over children born out of wedlock? By what means should such supervision be made effective? (*b*) Should State guardianship be exercised only over children who are neglected or dependent or in danger of becoming dependent, or should children born out of wedlock, by virtue of their birth status, become subject to the special guardianship of the State? (*c*) Should hospitals receiving unmarried pregnant women be required to report such cases to State or other public departments? Should a State department or a county or city department exercise any special function in regard to such cases?

LOCAL CONFERENCES—CHAIRMEN AND SECRETARIES.

INTER-CITY CONFERENCE ON ILLEGITIMACY (central organization of local conferences).

Chairman: J. Prentice Murphy, director of the Seybert Institution, Philadelphia, Pa.

Secretary: Louise Drury, executive secretary of the Juvenile Protective Association, Room 513, 85 Oneida Street, Milwaukee, Wis.

BOSTON—Boston Conference on Illegitimacy.

President: Mrs. Edith M. H. Baylor, in charge, department of placing-out of the Boston Children's Aid Society.

Secretary: Fannie Barnes, department of investigation and counsel of the Boston Children's Friend Society, 48 Rutland Street, Boston, Mass.

CHICAGO—Committee on Illegitimacy (subcommittee of Chicago Central Council of Social Agencies).

Chairman: Jessie F. Binford, Superintendent of Juvenile Protective Association of Chicago, 816 South Halsted Street, Chicago, Ill.

CINCINNATI—The Cincinnati Conference on Illegitimacy.

President: Dr. Wm. D. Porter, 1 Melrose Building, Walnut Hills, Cincinnati, Ohio.

Secretary: Mrs. Homer D. Broyles, director of the Juvenile Protective Association, 811 Neave Building, Cincinnati, Ohio.

CLEVELAND—Cleveland Conference on Illegitimacy.

President: James E. Ewers, general agent of the Cleveland Humane Society.

Secretary: Edith H. Odgers, committee secretary of The Welfare Federation of Cleveland, 707 Electric Building, Cleveland, Ohio.

DALLAS—Committee on Illegitimacy.

Chairman: Dr. May Agnes Hopkins, Southwestern Life Building, Dallas, Tex.

Secretary: Deaconess Affleck, 2133 North Harwood Street, Dallas, Tex.

SUMMARY OF RESOLUTIONS ON STANDARDS OF LE SLATION.

RECEIVED FROM LOCAL CONFERENCES OR GROUPS IN CONNECTION WITH THE W YORK REGIONAL CONFERENCE.

[illegible] on Illegitimacy, New York; Committee on Children of Unmarried Parents, Philadelphia; Conference on Illegitimacy, Springfield, Mass.; Conference on Illegitimacy, Washington, D. C.; Women's Bur [illegible] Committee on Illegitimacy.

	New York	Philadelphia	Springfield	Washington
1. *Establishment of paternity.* *a.* Should father's name be recorded on document issued to mother at birth of child?	After proof	Yes, if mother and child become public charges or dependents.	Only when included, or by father	After an affidavit made and filed by father
b. Should paternity be established in court?	No	Yes	No, but effort should be made	Yes, if mother or child be involved, in the discretion of the court.
c. Should father be entitled to appear and defend?	Yes	Yes	Yes	Yes, if mother or child be involved, in the discretion of the court.
d. How should evidence be presented to establish paternity?	Present as in other cases	Examination and cross-examination of parties in open court. Evidence of mother and child to be corroborated.	Only when doubtful	Under court discretion
2. *Enforcement of responsibility.* *a.* Should enforcement proceedings be instituted by the mother or by the child?	Either. Should be submitted to the court to determine in each case the advisability of instituting proceedings.	Yes. Superintendent of the Bureau of Special Commissioners, city special department of court, or police department of court, or person to whom care and custody of child may be given by court, should be authorized and required to institute proceedings.	Yes. Legal guardian	Yes. Legal guardian, before such guardian is appointed
b. Should the proceedings be civil or criminal?	Depended on circumstances. Desertion should be criminal. Complaints which permit of adjustment or conciliation should be civil.	Proceedings in equity should be provided for obtaining order to pay money for support and education of child.	Civil	Civil
c. What should be the penalty imposed?	Mother under authority to be notified in writing to appear in court	Special counsel appointed by the Bureau of Special Commissioners, to represent the child.	Mother ordered	Mother ordered
d. Should the mother be compelled to testify?	Civil, provide if the child comes to court	Civil		
e. Who should have the power to compromise?	Court having both civil and criminal power	Upon petition of either parent, guardian, or next friend, the court may, in its discretion, compromise the matter.		
f. Should the proceedings be public or private?	The latter	Private proceedings will be had, unless the court upon hearing shall so direct.	Not specified	Private proceedings should be had, unless the court upon hearing shall so direct.
g. Should there be a statute of limitations in proceedings instituted?	No	Yes, six months for child. Statute has long been in force. It should be amended to cover all illegitimate children within two years after the last payment by father, or after the last voluntary contribution to support.	No	Yes. Six months after birth of child.
h. What provision should be made for apprehension of alleged father?	By Massachusetts law and Uniform Desertion Act he may be apprehended in any State by indictment of grand jury	Same provisions as to abandonment of illegitimate children	Present laws adequate	Yes, within two years from birth of child, or five years after support has ceased, or after informal acknowledgment of paternity
3. *Father's responsibility for support of child.* *a.* Should he have same responsibilities for legitimate child?	Yes	Yes	Yes, social status of mother and whether separation is legal for child should affect amount of allowance	Yes
Should non-support and desertion laws apply?	Yes	Yes	Yes	Yes
b. Should court continue jurisdiction indefinitely and support during child's minority, with power to revise its orders, or should definite order be placed before parent?	Court should continue jurisdiction during minority, with power to revise orders, but not more than one year at a time	Court should have power to revise orders, but not more than one year at a time	Continuing jurisdiction with power to revise order	Continuing jurisdiction with power to revise order
c. How secure regular contributions—by probation and an order for periodic payments?	Probation within discretion of court following good case-work procedure.	Probation and periodic payment	Probation and order for periodic payments recommended, especially when in a state bond is put	Probation should be in discretion of court
d. Other available methods of enforcing payment—fines, sentence to house of correction, etc.—which should they be used?	Same method now used in cases of abandonment of illegitimate children	Fine and sentence recommended sentence to penal institution and payment of order by city or county while man serves term. More use should be made of short bonds, renewable on expiration.		Same methods as now used in case of father of illegitimate children
e. Should court have power to accept lump-sum payments or cash payments in discretion, except when adequate provision has been made?	No	Yes (several suggestions and proposals)	Yes, in view of risk incurred in periodic payments; to be established on present worth of periodic payments in full. Provision is made for refund in case of death of child. Court should handle money and pay out weekly or monthly	Yes, on lump-sum payment should be valid and approved by court
f. Should law forbid private settlements out of court?		Yes	No, but right of either party to appeal to court must be guarded.		No	Settlements out of court, in order to be valid, should be approved by court
4. *Inheritance rights, name.* *a.* Should same inheritance rights prevail as for children born in wedlock, and upon what evidence?	Yes, after adjudication has been made	Yes; presided paternity has been legally established	Should be same as for children of divorced parents, after legal establishment of paternity	Yes, after an adjudication of paternity by court or acknowledgment in writing by father	Yes, on proof of paternity	Yes, after an adjudication of paternity or acknowledgment in writing by father
b. Should law give child right to father's name?	Yes	Optional with child after establishment of paternity by court	Optional with child when able to make election	Optional with the child when able to make election	Optional with the child when able to make election	Should be permissive after adjudication of paternity or acknowledgment in writing by father
c. Should it be obligatory for child in custody of mother to take father's name?		Advocate case-work procedure	Optional with child	No	No	
5. *Care by mother.* *a.* Should mother be required to keep child during nursing period? How long?	Mother should be persuaded but not forced by law	A case work problem to be decided upon merits of individual cases	Yes, unless certificate of physician and court or authorized public department permit separation	Mother should be persuaded to keep child	No	Mother should be persuaded by good case work
How enforce?	Same as in case of married mother	(1)	6 months			
b. What assistance should be given mother to enable her to keep child?	Broader application of existing laws in Massachusetts—mother's and law or temporary relief through overseers of poor.	(1)	Maternity insurance benefits, before care before and after childbirth	Mother's pension law or workmen's compensation (I should apply when applicable)	Maternity insurance	Benefits of the so-called mothers' pension acts, when necessary.
c. Should mothers' pension laws and workmen's compensation acts apply?	Yes	Yes; on usual conditions of mother's fitness for care for child, and, in workmen's compensation cases, if father is under legal obligation to help support	Theoretically, yes, at present depends on state of public opinion in a given community.	Yes	Division of opinion as to granting mothers' pension	
6. *Surrender of child* *a.* Should parents be permitted to surrender child without consent of court or of authorized State agency?	Permission should be given by State agency in control of children	No	No	No	No	No
b. Is court or State agency preferable?		Advocate a special court, the State, through the court, to have supervision	Dependent on conditions in the State			
7. *State supervision.* *a.* Should State assume supervision and protection?	No	Yes	Only when child needs protection and not because of birth status.	Yes	Some form of State guardianship which should assume supervision and protection.	Yes.
How should it be made effective?		Special court	Involves supervision of all incorporated agencies.			State department having the responsibility for child welfare
b. Should State guardianship be exercised only over neglected and dependent children, or those likely to become so, or over all children born out of wedlock?	Only children who are neglected and dependent, or likely to become so, other method would meet	State, through special court, should have guardianship over all.	Exercise of guardianship authority limited to children who are neglected and dependent, or likely to become so. Should operate in adoption, or care outside family, or neglect inside. Birth status should not determine exercise of guardianship.		Only children who are neglected or dependent, or likely to become so.	Only over those children who are neglected or dependent, or in danger of becoming dependent. State department should ascertain that every child born out of wedlock receives proper care.
c. Should hospitals report secret unmarried pregnant women to State or other public department?		Yes	All incorporated agencies affected should report cases to bureau of vital statistics. All such agencies should be open to public inspection unincorporated agencies should be prohibited.	Yes	Yes. State should license and supervise such hospitals and follow up such cases as are not cared for by social service agencies.	State should license and supervise private hospitals which receive unmarried mothers for confinement, and all private child-helping and child-placing agencies.
d. Should State department, or county or city departments, exercise special function in regard to adoptions?		On receipt of information proper case-work procedure should be instituted by State.	Yes			

(1) Division of opinion—majority opinion given.

2 Such a marriage of the parents should legitimate the child born out of wedlock. The offspring of a void or voidable marriage should be by law legitimate considered in so far as they would benefit mother and child.

3 Marriage ceremony should not be required as to cause wife and child of married man to suffer. Father's future prospects she

SUMMARY OF RESOLUTIONS ON STANDARDS OF LEGISLATION

RECEIVED FROM LOCAL CONFERENCES OR GROUPS IN CONNECTION WITH THE CHICAGO REGIONAL CONFERENCE

(Chi[illegible] [illegible])

[illegible]	Chicago	Cincinnati	Cleveland	Detroit	Milwaukee	[illegible]
1. [illegible] a [illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
b Should [illegible]	[illegible]	No	[illegible]			Mother should [illegible]
c Should [illegible]		[illegible]	[illegible]		[illegible]	[illegible]
d [illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	
2. [illegible] a Should [illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	
b [illegible]	[illegible]	[illegible]	[illegible]	[illegible]		
c [illegible]		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
d Should [illegible]	[illegible]					[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	
e [illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
f [illegible]	[illegible]	No	[illegible]	[illegible]	[illegible]	[illegible]
g What procedure should [illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
3. Father's [illegible]						
a Should he have [illegible] as for legitimate child?	[illegible]	Circumstances should determine. Father should support during child's [illegible]		[illegible]	Yes, [illegible] depending on condition of [illegible] father's [illegible]	Yes, [illegible] established by court
Should non-support [illegible] apply?		Yes		Yes	Yes	
b Should court continue jurisdiction over custody and support during child's minority with power to revise its order, or should definite order be placed for stated period?	During child's minority	During child's minority, with power to revise its orders	Continuing jurisdiction after adjudication of paternity	Continuing jurisdiction during child's minority, with power to revise it order	Continuing jurisdiction during age of dependency, with power to revise it order	Recommend probation under a super[illegible] of parents for all delinquent [illegible] and periodic payments in [illegible]
c How secure regular contributions?—probation and an order for periodic payment?	Probation should be a matter of discretion	Probation and periodic payments. Father should give bond	Probation and periodic payment. Guaranty bond should be required when possible	Periodic payments subject to change by court to court officer. No other probation	Supervision according to order for periodic payments	
d Other available methods of enforcing payment—fine, commitment to house of correction, etc.—when should they be used?		Fine, sentence to house of correction, etc., should be used only when other method fail	Fine and commitment to penal institutions should be used only when other method fail	Father held for contempt of court, civil action, etc. [illegible] and proceeds of work be applied to support dependents		
e Should court have power to accept lump-sum payments or cash in lieu of an order, except when adequate provision has been made?	Lump-sum payment should be a matter of discretion	Lump-sum only in very peculiar cases. Adequate sum for continued care and weekly or monthly payments for child	Lump-sum should be permitted at discretion, if sufficient for support during minority or age limit set by law for father's liability	No, except when adequate provision has been made for entire period of father's liability for support	Yes	Yes, preferable to periodic payments in some instances
f Should law forbid private settlements out of court?	Yes	No, but such settlement should not be bar to subsequent criminal proceedings if support is inadequate or in case of default of payment	Yes, no settlement without approval of court should be valid	Yes, such settlements should be held void	Yes	
4. *Inheritance rights; name.*						
a Should same inheritance rights prevail as for children born in wedlock, and upon what evidence?	No	Yes, if father has acknowledged paternity in writing or after court adjudication	No change in present law	Yes, on written admission by father or court adjudication of paternity	Should inherit from mother	Yes, when paternity has been established before the court
b Should law give child right to father's name?	No	Yes, after paternity has been established	Optional, after adjudication of paternity or acknowledgment in writing	Yes, after paternity has been established, use to be optional with mother	Only after adjudication of paternity and the court order	Yes. Mother will probably not care to do so except in case of marriage
c Should it be obligatory for child in custody of mother to take father's name?		No	Optional, after adjudication of paternity or acknowledgment in writing	Dependent on circumstances	Not desirable; change only by court order	
5. *Care by mother.*						
a Should mother be required to keep child during nursing period?	No change in present law recommended	Should depend upon circumstances	Mother should be persuaded if possible, but there should not be a compulsory law applying solely to unmarried mothers	Not if adequate provision is otherwise made	Yes, if physically and mentally capable. Legal guardian until court changes order	Should not be required by law
How long? How enforce?		3–6 months. State board of charities should enforce "if social and medical conditions warrant it."		If child's condition is such that separation involves neglect, present statute provide remedy	6 months preferably. Law should prohibit separation except by court permission	
b What assistance should be given mother to enable her to keep child?		Maternity benefits for married and unmarried women may be necessary	Father should be required by law to support, otherwise if mother can not, public or private assistance should be given as long as necessary	State should provide care through mothers' pensions if father does not provide	County poor funds and private funds should provide when necessary. Intensive case work to insure provision	Mother's pension might be used to some extent, although responsibility of father should be kept uppermost
c Should mothers' pension laws and workmen's compensation acts apply?		Yes	Workmen's compensation acts should be applicable	Mothers' pension laws in Michigan are now applicable to all children. Workmen's compensation acts should be revised to include all	Workmen's compensation act (but not mother's pension laws) should be applicable to all	
6. *Surrender of child.*						
a Should parents be permitted to surrender child without consent of court or of authorized State agency?	Consent of some authority should be required	Consent of authorized State agency should be required	Adoption or placement for permanent care should not be legal without consent of court or authorized State agency after investigation	Placement for permanent care with persons other than natural parents should be prohibited except on order of court of competent jurisdiction	Mother or guardian should not surrender child for adoption to any agency or person without consent of court	Only through court proceedings
b Is court or State agency preferable?	Laws of State should determine whether administrative or judicial authority	State board of charities		Court is preferable to State agency		
7. *State supervision.*						
a Should State assume supervision and protection? How should it be made effective?	Dependent on circumstances	Yes. State board of charities, or local agent, should be responsible for every child born out of wedlock, extent dependent on circumstances.[4]	Register of births should report to authorized State agency, after investigation, neglected and dependent children, and those likely to become so, should be supervised	State should not assume special supervision	State should assume supervision through county units of a State children's bureau	A children's department of State board of charities should be vested with authority and oversight
b Should State guardianship be exercised only over neglected and dependent children, or those likely to become so, or over all children born out of wedlock?	Dependent on circumstances	Guardianship by State when child is likely to become dependent	Only over neglected and dependent children, or those likely to become so	Only over neglected and dependent children, or those likely to become so, birth status should not determine special guardianship	Birth status should not determine special guardianship of State. State should assume guardianship only when neglected or dependent on public support	Authority and oversight of children born out of wedlock
c Should hospitals report cases of unmarried pregnant women to State or other public department?	Hospital supervision should be more effective, if necessary, but special measures confined to children born out of wedlock are not recommended	Hospitals or homes should report cases to State board of charities, which should have supervisory power over same	Should be obligatory to report to authorized State agency. After investigation, such cases as need it should be supervised	Michigan requires hospitals and maternity homes to report such cases to State board of corrections and charities. Also requires them to send placenta blood when case is known to be illegitimate	Should report to local board of health, which should report to court, so that proceedings may be instituted to establish paternity	A children's department of State board of charities should supervise institutions, public and private, dealing with mother and child
d Should State department or county or city departments exercise special function in regard to such cases?				County or State department of the State board of corrections and charities should ascertain what adequate plan is made for mother and child		

[1] Des Moines. General report adopted which included the following: "Legislation should safeguard the interests of illegitimate children and secure for them the nearest possible approximation to the care, support, and education that they would be entitled to receive if born of lawful marriage. The same laws that now prevail with reference to wife desertion should be applied in this case, and when paternity is established the child should as a matter of law be entitled to inherit from the father."

[2] Minority report: Civil proceedings. Probate court—this court to be a court of record. Following establishment of paternity, child should be cared for by its parents, the laws for care of minor children to be amended to include child born out of wedlock.

[3] Laws fixing jurisdiction should include children of unmarried parents in definition of dependent children, and should provide for hearings in behalf of unborn child, and hearings in cases of adults for establishing paternity.

[4] State board of charities should have power to have physical and mental examinations made of unmarried pregnant women and unmarried mother.

DES MOINES—Conference in process of organization.
Correspond with: Mrs. Mary J. Miles, assistant special agent, Interdepartmental Social Hygiene Board, 510 Good Block, Des Moines, Iowa.

DETROIT—Detroit Illegitimacy Conference.
Chairman: Hon. Stewart Hanley, judge of the circuit court.
Secretary: Eleonore L. Hutzel, director of the social service department, Woman's Hospital and Infants' Home, 145 Forest Avenue East, Detroit, Mich.

LOUISVILLE—Child Welfare Committee of the Community Council of Louisville.
Chairman: P. H. Ryan, superintendent of Louisville Wesley House.
Secretary: Walter E. Hughes, 60 Kenyon Building, Louisville, Ky.

MILWAUKEE—Subcommittee of the Child Life Committee of the Central Council of Social Agencies.
Chairman: Louise Drury, executive secretary of the Juvenile Protective Association of Milwaukee.

NEW YORK—Committee on Children of Unmarried Parents.
Chairman: Rev. Robert F. Keegan, secretary for charities to the Archbishop of New York.
Secretary: Mary Arnold, executive secretary of the Babies' Welfare Association, Health Department Building, Center and Walker Streets, New York, N. Y.

PHILADELPHIA—The Philadelphia Conference on Parenthood.
President: Mrs. Frank D. Watson, Haverford, Pa.
Secretary: Isabel F. Pelly, secretary of The Girls' Aid, 1505 Arch Street, Philadelphia, Pa.

PITTSBURGH—Pittsburgh Conference on Illegitimacy.
Chairman: Mrs. Helen Glenn Tyson, instructor in social economy, University of Pittsburgh.
Secretary: Elizabeth A. Campbell, Children's Service Bureau, Pittsburgh, Pa.

PORTLAND—Conference in process of organization.
Correspond with: Mrs. Mary S. Burnham, deputy sheriff and court official, Cumberland County Courthouse, Portland, Me.

PROVIDENCE—The Conference on Illegitimacy.
President: Dr. Arthur Ruggles, Butler Hospital.
Secretary: Grace C. Upham, head worker, Social Service Department, Providence Lying-In Hospital, 109 Washington Street, Providence, R. I.

ROCHESTER—Committee on Illegitimacy, Social Welfare League of Rochester.
Correspond with: Alberta Smith, assistant secretary, Social Welfare League of Rochester (Inc.), 512 Cutler Building, Rochester, N. Y.

SPRINGFIELD—The Springfield Conference on Illegitimacy.
Chairman: Grace W. Redding, general secretary of the Hampden County Children's Aid Association, 5 Courthouse Place, Springfield, Mass.

ST. LOUIS—Conference in process of organization.
Correspond with: Susan Bain, visitor, Board of Children's Guardians, Municipal Courts Building, St. Louis, Mo., chairman of temporary organization committee.

WASHINGTON, D. C.—Committee on Illegitimacy (temporary committee of Women's Bar Association).
Chairman: Mrs. Ellen Spencer Mussey, honorary dean, Washington College of Law, District of Columbia.

WICHITA—Conference on Illegitimacy.
Chairman: G. L. Hosford, general superintendent, The Christian Service League of America, Corner Glenn and Maple, Wichita Kans.

PERSONS TAKING PART IN THE REGIONAL CONFERENCES.

Adams, Florence J., Associated Charities, Des Moines, Iowa.
Addams, Jane, Hull House Association, Chicago.
Allen, Ella M., Superintendent, Social Service Department, Chicago Lying-in Hospital and Dispensary.
Armstrong, Alda L., Director, Children's Bureau of Delaware, Wilmington.
Arnold, Mary, Executive Secretary, Babies' Welfare Association, New York.
Arnold, Judge Victor P., Juvenile Court of Cook County, Chicago.
Bartelme, Mary M., Assistant to the Judge, Juvenile Court of Cook County, Chicago.
Bates, Jeannette, Assistant Attorney General of Illinois, Chicago.
Betowski, Rev. Edward M., Catholic University, Washington, D. C.
Bijur, Mrs. Abraham, Chairman, Room Registry of the Young Women's Hebrew Association, New York.
Binford Jessie F., Superintendent, Juvenile Protective Association of Chicago.
Bowen, Mrs. Louise De Koven, President Juvenile Protective Association of Chicago.
Breckinridge, Sophonisba P., Dean, Chicago School of Civics and Philanthropy.
Brown, John A., Supervisor of Field Service, Board of State Charities of Indiana
Broyles, Mrs. Homer D., Director, Juvenile Protective Association of Cincinnati, Ohio.
Burnham, Mrs. Mary S., Deputy Sheriff and Court Official, Portland, Me.
Burton, Flora E., Supervisor, Social Service Division of Aid and Relief, Massachusetts Department of Public Welfare.
Butler, Edmond J., Executive Secretary, Catholic Home Bureau for Dependent Children, New York
Carmichael, Annie, Protective Officer, Detroit, Mich.
Carr, James D., Assistant Corporation Counsel, New York.
Carstens, C. C., General Secretary, Massachusetts Society for the Prevention of Cruelty to Children, Boston.
Clawson, Frank L., Executive Secretary, Long Island Church Mission of Help, Brooklyn, N Y.
Cooley, Edwin J., Chief Probation Officer, City Magistrates' Courts, New York.
Curry, H Ida, Superintendent, County Agencies for Dependent Children, State Charities Aid Association, New York.
Davis, Otto W., Secretary, Council of Social Agencies, Minneapolis, Minn.
Diamond, Herbert M., Assistant Secretary, Connecticut Child Welfare Commission, Hartford.
Doherty, William A., Superintendent, St. Michael's Aid Society, Trenton, N. J
Donahue, A. Madorah, Henry Watson Children's Aid Society, Baltimore, Md.
Drury, Louise, Executive Secretary, Juvenile Protective Association of Milwaukee, Wis.
Eldridge, Mrs. A. R., Big Sisters, Chicago.
Fairchild, Henry P., Executive Secretary, Connecticut Child Welfare Commission, Hartford.
Farmer, Gertrude L., Director, Department of Medical-Social Work, Boston City Hospital.
Fee, James E., Director, Division of Child Guardianship, Massachusetts Department of Public Welfare.

Fitzgerald, Mrs. Katherine T., Supervisor of Children's Boarding Homes, Division of Child Hygiene, New Jersey State Board of Health.
Folks, Homer, Secretary, State Charities Aid Association, New York.
Foster, Edith, Department of Instruction, Wisconsin Anti-Tuberculosis Association, Milwaukee.
Foster, James H., Superintendent, Division of Dependent Children, State Board of Charities of New York.
Freund, Ernst, Professor of Jurisprudence and Public Law, University of Chicago Law School.
Fry, Judge Sheridan E., Domestic Relations Branch, Municipal Court of Chicago.
Gillam, Mrs. Mabel A., Field Secretary, The Chicago Association of Day Nurseries.
Glenn, Mrs. John M., Vice President, Church Mission of Help, New York
Godard, Gwenn P., Director, Children's Aid Division, Nebraska Humane Society, Omaha.
Guilfoy, Dr. William H., Registrar of Records, New York City Department of Health.
Guttmacher, Mrs. Adolph, Executive Secretary, Jewish Children's Bureau, Baltimore, Md.
Hart, Hastings H., Director, Department of Child-Helping, Russell Sage Foundation, New York.
Hewins, Katherine P., General Secretary, Church Home Society, Boston, Mass.
Hodson, William W., Director, Children's Bureau, State Board of Control of Minnesota.
Hosford, George Lewis, General Superintendent, The Christian Service League of America, Wichita, Kans.
Hull, Bradley, Assistant General Agent, Cleveland Humane Society.
Hunter, Joel D., General Superintendent, United Charities of Chicago.
Hutchins, Lucy H., Probation Officer, District Court, Cambridge, Mass.
Hutzel, Eleonore L., Director, Social Service Department, Woman's Hospital and Infants' Home, Detroit, Mich.
Keegan, Rev. Robert F., Secretary for Charities to the Archbishop of New York.
Kemp, Janet E., Special Assistant in Work for Unmarried Mothers, Boston Children's Aid Society.
Kennedy, James F., Secretary, Metropolitan Central Council, Society of St. Vincent de Paul, Chicago.
Killean, Mary, Juvenile Court Representative, Big Sisters, Chicago.
Kingsley, Sherman C., Secretary, Welfare Federation, Cleveland.
Knight, Frances, Department of Public Welfare, Detroit, Mich.
Knight, Frederic H., Superintendent, New England Home for Little Wanderers, Boston, Mass.
Lathrop, Julia C., Chief, Children's Bureau, U. S. Department of Labor, Washington, D. C.
Lattimore, Florence, Investigator for New York Committee on Children of Unmarried Parents, New York.
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